

CHAPTER 9: HEALTH AND SANITATION

Article

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ARTICLE 9-1: METHODS OF GARBAGE AND TRASH REMOVAL

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§ 9-1-1 HAULING REFUSE.

It is unlawful for any person to haul or cause to be hauled any refuse on or along any public street, avenue or alley in the city in violation of any of the provisions in this chapter.

§ 9-1-2 VEHICLES AND RECEPTACLES TO BE SPILL PROOF.

It is unlawful for any person to haul or cause to be hauled on or along any public street in the city any garbage, unless such garbage is contained in strong, watertight vehicles or vehicles with watertight receptacles, constructed to prevent any garbage from falling, leaking or spilling and any odor from escaping.

§ 9-1-3 SPILLED REFUSE.

Any person hauling any refuse along the streets of the city shall immediately replace in the conveyance used for such hauling any refuse which may fall upon any street.

§ 9-1-4 DUMPING REFUSE.

It is unlawful for any person to place or cause to be placed any refuse, trash, filth, rubbish or debris upon any public or private property within the city except as specifically permitted in this chapter and, in addition to any fine which may be imposed for a violation of any provision of this section, shall be liable for all costs which may be assessed pursuant to this article for the removal of the refuse, trash, filth, rubbish or debris.

ARTICLE 9-2: LITTER; NUISANCES

Section

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§ 9-2-1 DEFINITIONS.

For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ABANDONED VEHICLE. Any vehicle, trailer or semi-trailer of a type subject to registration under this article, whether lost, stolen, abandoned or otherwise unclaimed, which has been abandoned on a public highway, public property or elsewhere within the city, including private property. Evidence that a vehicle was left unattended for a period of 48 hours within the right-of-way of a highway, road, street or other public thoroughfare, or for a period of 72 hours on public property or elsewhere within the city including private property, shall be prima facie evidence of abandonment.

AIRCRAFT. Any contrivance now known or hereafter invented, used or designed for navigation or for flight in the air, and includes, but is not limited to, helicopters and lighter-than-air dirigibles and balloons.

ANIMAL. Any and all types of animals both domestic and wild, male and female, singular and plural.

AUTHORIZED PRIVATE RECEPTACLE. A litter storage and collection receptacle as required and authorized in this article.

FOWL. Any and all fowl, domesticated and wild, male and female, singular and plural.

GARBAGE. Putrescible animal and vegetable wastes, resulting from handling, preparation, cooking and consumption of food.

JUNK VEHICLE. A vehicle that is in such a state of deterioration that it cannot be profitably dismantled or salvaged for parts and cannot be profitably restored.

LITTER. Garbage, rubbish, refuse, waste material, offal, paper, glass, cans, bottles, weeds, organic or inorganic trash, debris, filthy or odoriferous objects, dead animals, or any foreign substance of whatever kind or description, whether or not any of these items are of value.

PARK. A park, reservation, playground, recreation center or any other public area in the city owned or used by the city and devoted to public recreation.

PRIVATE PREMISES. Any dwelling, house, building or other structure designed or used either wholly or in part for private residential purposes whether inhabited, temporarily or continuously uninhabited or vacant, and includes but is not limited to any yard, grounds, walk, driveway, porch, steps, vestibules or mail box belonging or appurtenant to such dwelling, house, building or other structure.

PUBLIC PLACE. Any and all streets, sidewalks, boulevards, alleys or other public ways and any and all public parks, squares, spaces, grounds and buildings.

REFUSE. All putrescible and non-putrescible solid wastes, except body wastes, including garbage, rubbish, ashes, street cleanings, dead animals, abandoned, wrecked or junked vehicles or parts thereof and solid market and industrial wastes.

RUBBISH. Non-putrescible solid wastes consisting of both combustible and non-combustible wastes, such as paper, wrappings, cigarettes, cardboard, metal cans, yard clippings, leaves, metal, wood, glass, bedding, crockery, furniture, major appliances, water heaters and similar materials.

STREETS OR ROAD. The entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel, and includes the whole right-of-way of the public entity maintaining said way, whether such right-of-way is paved or not.

VEHICLE. Every device in, upon or by which any person or property is or may be transported or drawn upon a highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks. (Ord. 93-14, passed - -)

§ 9-2-2 PUBLIC NUISANCES DEFINED.

The following specific acts, omissions, conditions and things in or upon any private lot, building, structure or premises, or in or upon any public right-of-way, streets, avenue, alley, park, parkway or other public or private place in the city are hereby declared to be public nuisances, to wit:

A. Privies, vaults, cesspools, sumps, pits or like places which are not securely protected from insects or rodents, or which are foul or malodorous, or which are not securely closed and protected or if necessary, illuminated so as to prevent persons or objects from falling therein. Also included are septic tanks and other alternative disposal systems which are no longer in use due to connection of a property to the city wastewater system, and which are required to be abandoned pursuant to § 13-5-4, subsection E.;

B. Filthy, littered or trash-covered exterior areas, including all buildings and structures thereon and areas adjacent thereto;

C. Animal manure in any quantity which is not securely protected from insects and the elements, or which is kept or handled in violation of any ordinance of the city or Coconino/Yavapai Counties; provided, however, that nothing in this subsection shall be deemed to prohibit the utilization of such animal manure on any farm, garden or ranch in such manner and for such purposes as are compatible with customary methods of good husbandry;

D. Poison oak, poison ivy, or any noxious or toxic weeds or uncultivated plants (whether growing or otherwise), weeds, tall grass, uncultivated shrubs or growth higher than 24 inches or which present a fire hazard;

E. Accumulations of bottles, glass, cans, ashes, small pieces of scrap iron, wire, metal articles, bric-a-brac, broken stone or cement, broken crockery, broken glass, broken plaster and all other trash and abandoned material, unless the same be kept in covered bins or metal receptacles approved by a county health officer, this code or any ordinance of the city;

F. Accumulation of trash, litter, rags, empty barrels, boxes, crates, packing cases, mattresses, bedding excelsior, packing straw, packing hay, or other packing material, lumber not neatly piled, scrap iron, tin, and other metal not neatly piled or anything whatsoever in which insects may breed or multiply or which provides harborage for rodents or which may create a fire hazard;

G. Any unsightly and dangerous building, billboard or other structure, or any old abandoned or partially destroyed building or structure, or any building or structure commenced and abandoned;

H. Any abandoned vehicle or junk vehicle and all places used or maintained as junk yards or dumping grounds, or for the wrecking, disassembling, repair or rebuilding of automobiles, trucks, tractors or machinery of any kind, or for the storing or leaving of worn out, wrecked or abandoned automobiles, trucks, tractors or machinery of any kind or of any of the parts thereof, or for the storing or leaving of any machinery or equipment used by contractors or builders or by other persons, which said places are kept or maintained so as to interfere with the comfortable enjoyment or the quality of life or property by and of others; provided, however, that nothing contained in this subsection shall be deemed to prohibit any automobile wrecking yard or other junk yard where the same is otherwise permitted by the city zoning ordinance and amendments thereto, which is operated in conformity therewith;

I. Any putrid, unsound or unwholesome bones, meat, hides, skins, or the whole or any part of any dead animal, fish or fowl, butcher's trimmings and offal, or any waste vegetable or animal matter in any quantity, garbage, human excreta, sewage or other offensive substances accumulated on private or public property;

provided, however, nothing herein contained shall prevent the temporary retention of waste in receptacles in the manner provided by a county health officer, this code or ordinance of the city;

J. The erection, continuance or use of any building, room or other place in the city for the exercise of any trade, employment or manufacture which, by noxious exhalations, including, but not limited to smoke, soot, dust, fumes or other gases, offensive odors or other annoyances, which is discomforting or offensive or detrimental to

the health of individuals or of the public, except for normal exhalation or smoke produced by normal heating devices;

K. Causing, allowing or permitting any artificial illumination of such intensity as to interfere substantially and unnecessarily with the use and enjoyment of public or private property by a considerable number of people, or with the lawful use of any school, public place or public street, or with any governmental or public function of the city, or as to constitute a hazard or threat to the public health, safety and welfare of the people of Sedona; provided, this subsection shall not apply where the person responsible for said artificial illumination is authorized by the City Manager, any school within the city, this code or any ordinance of the city;

L. Burning or disposal of refuse, sawdust or other material in such a manner as to cause or permit ashes, sawdust, soot or cinders to be cast upon the streets or alleys of the city, or to cause or permit the smoke, ashes, soot or gases arising from such burning to become annoying to a considerable number of people, or to injure or endanger the health, comfort or repose of the persons; provided, that this subsection shall not apply where the person responsible for the action has properly obtained a fire permit from the Sedona Fire District or a permit from a county health officer; provided further, that nothing herein contained in this subsection shall be deemed to authorize any burning not authorized under the provisions of this code or the ordinances of the city, except for normal exhalation or smoke produced by normal heating devices;

M. Any unguarded or abandoned excavation, pit, well or hole dangerous, injurious or harmful to life or property;

N. To leave or permit to remain outside of any dwelling, building or other structure, or within any unoccupied or abandoned building, dwelling or other structure under the control of any person and in a place accessible to children, any abandoned, unattended or discarded ice box, freezer, refrigerator or other container which has an airtight door or lid, snap lock or other locking device which may not be released from the inside, without first removing said door or lid, snap lock or other locking device from said ice box, freezer, refrigerator or container;

O. The doing of any act, or omitting to perform a duty, or suffering or permitting any condition or thing to be or exist, which act, omission, condition or other thing either unlawfully interferes with, obstructs or tends to obstruct or renders dangerous the free passage or use, in the customary manner, of any stream, public park, parkway, square, sidewalk, street or highway in the city and is no less a nuisance because the extent of the annoyance or damage inflicted is unequal.

(Ord. 93-14, passed - -)

§ 9-2-3 LITTER IN PUBLIC PLACES.

No person shall throw or deposit litter or place abandoned or junk vehicles in or upon any street, sidewalk or other public place within the city except in public receptacles or in authorized private receptacles for collection.

(Ord. 93-14, passed - -)

§ 9-2-4 DEPOSITING LITTER IN GUTTERS, STREETS AND OTHER PUBLIC PLACES.

No person shall sweep into or deposit in any gutter, street or other public place within the city the accumulation of litter from any public or private sidewalk or driveway or any building or lot. Persons owning or

occupying property or places of business shall keep the sidewalk and parkway in front of their premise free of litter.

(Ord. 93-14, passed - -)

§ 9-2-5 LITTER THROWN FROM VEHICLES.

No person, while a driver or passenger in a vehicle, shall throw or deposit litter upon any street or other public place within the city or upon private property.

(Ord. 93-14, passed - -)

§ 9-2-6 COVERED/SECURED LOADS.

A. A person shall not operate or move a vehicle within the city unless the vehicle load is secured or securely covered to prevent the load from dropping, sifting, leaking or otherwise escaping from the vehicle. A load includes “refuse” as defined in § 9-2-1. L of the Code.

B. No person shall operate a moving vehicle within the city limits unless it is free from any loose material such as sand, dirt, gravel, rocks, or mud. This requirement would not include dirt, mud, or snow picked up by the vehicle while operating on the road.

C. Notwithstanding the penalty provisions of § 9-2-19, any person found to be in violation of subsection A. shall on a first offense be issued a written warning if it occurs within 12 months within enactment, and thereafter be issued a civil citation in accordance with the Sedona Code. Article 1-8.E (as amended), and, in the discretion of the court, be ordered to perform community service in addition to or in lieu of a sanction. Additional offenses within a period of 24 months shall have a minimum sanction of \$500. A person found in violation of subsection B. shall likewise be issued a civil citation, with a minimum sanction of \$100.

D. The provisions of this section for securing or covering loads, and maintaining the vehicle free from loose materials, applies both to the primary vehicle, and any vehicle, trailer, or carrier towed by the primary vehicle.

(Ord. 2006-01, passed 1-10-2006)

§ 9-2-7 LITTERING IN PARKS.

No person shall throw or deposit litter in any park within the city except in public receptacles and in such manner that the litter will be prevented from being carried or deposited by the elements upon any part of the park or upon any street or public place. Where public receptacles are not provided, all litter shall be carried away from the park by the person responsible for its presence and properly disposed of.

(Ord. 93-14, passed - -)

§ 9-2-8 REPEALED.

(Ord. 2001-19, passed 9-11-2001)

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§ 9-2-9 OFF-PREMISES CANVASSING.

A. *Findings and purpose.* This section is based on the following findings and purposes.

1. a. Because of the proliferation of off-premises solicitation locations, particularly within the Sedona Business District, and the fact that the volume of such activities has resulted in numerous complaints by pedestrians and tourists about the aggressive and persistent actions of such persons attempting to engage them in a conversation in order to consummate a business transaction, it is the intent of this section to preserve and protect the unique charm and small town character of the Sedona Business District, which serves as a major attraction to millions of tourists each year.

b. The city is committed to maintaining its small town character, scenic beauty and natural resources, which are the foundation of its economic strength and quality of life. (Sedona Community Plan Section 9.2, Recommendations Goal 1.0). These essential components of the city's attractiveness to residents and visitors have been severely impaired by the practice of aggressive off-premises canvassing, particularly as practiced in the central tourist destination of the Sedona Business District.

c. Between 1996 and 2002, the city received copies of more than 150 written complaints as well as indications of numerous additional verbal complaints from visitors to the city regarding the aggressive off-premises canvassing activities conducted in the Sedona Business District. A number of the complaining visitors described these activities as ruining the special character of the city which was their reason for visiting and expressed their determination not to return to the city because the aggressive off-premises canvassing had destroyed its attractiveness as a place to visit.

d. The ordinance set forth in this section is therefore directed solely to the regulation of the time, place and manner of certain limited forms of commercial speech with the general goal of requiring that person-to-person solicitation activities initiated by businesses or their representatives and directed toward the traveling public in the Sedona Business District are confined to enclosed structures or on the actual business premises of the soliciting entity. The ordinance set forth in this section is not intended to regulate any form of speech other than speech designed to do no more than propose a commercial transaction. Neither is the ordinance set forth in this section intended to prohibit in any way the rights of the traveling public to inquire or seek information or initiate simple transactions from outside an enclosed structure.

e. Given the unique commingling of both public and privately owned sidewalks throughout the Sedona Business District which are equally accessible without restriction by tourists and pedestrians, the purposes of the ordinance set forth in this section can only be made effective if the restrictions contained herein are applied to both public and private sidewalks.

2. Tourism is essential to the city's fiscal strength. Sedona's 'friendly, small town environment' has historically played a substantial role in making it an attractive tourist destination, by making the city a 'gateway community' – such as, a place to which visitors may come “to escape the congestion, banality, and faster tempo of life in the suburbs and cities.” (Sedona Community Plan Update 2001-2002 Draft March 2002, Part 15.1.) In 1996, it is estimated that between \$77.2 and \$85.1 million in retail sales was attributable to visitor spending, and taxable visitor retail, lodging, and service industry expenditures were between \$138.2 and \$152.3 million,

representing over 60% of all taxable expenditures in these categories. In fiscal 2000-2001, the city collected approximately \$1.4 million in bed taxes and \$2.9 million in city sales tax. Tourism is also the city's leading

employer, accounting for 1,600 jobs in direct employment and 800 jobs in indirect and induced employment. (Sedona Community Plan Update 2001-2002 Draft March 2002, Part 15.1.) Because the Sedona Business District is a critical component of the city's entire sales tax base, the ordinance set forth in this section is further designed to protect the economic viability of this area by ensuring a pleasurable outdoor shopping experience uninhibited by repeated personal sales solicitations for the millions of tourists, which visit the area each year.

3. The ordinance set forth in this section is further designed to:

a. Protect local residents and visitors against unreasonable interference or disturbance of their peace or obstruction of their free travel on city streets and sidewalks within the Sedona Business District from the conduct of OPC solicitors;

b. Insure that persons engaging in off-premises canvassing do not misrepresent the nature of the products that they are promoting or the identity of the business that is promoting the products and to provide a means for regulating such activities and enforcing the provisions of this section;

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c. Establish an OPC Ombudsman to assist the city and visitors in addressing and resolving complaints on OPC activities in an appropriate and effective manner.

B. *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BUSINESS. Any commercial activity in which any real property, timeshare interests, goods, services or edibles are sold or offered for sale or for rent within the corporate limits of the city.

BUSINESS AGENT. The employee, representative, agent, or solicitor of any business.

EDIBLES. Any food or beverage intended for human consumption.

ENCLOSED STRUCTURE. A structure having a roof and supported by column or walls. Enclosed structure does not include any sidewalks under a roofed area.

GOODS. Any tangible item, including, but not limited to, edibles, merchandise, products, supplies, coupons, pamphlets, brochures, and maps.

OFF PREMISES CANVASSING or ***OPC.*** Person-to-person efforts initiated by a business agent solely intended to interest, entice, or solicit any person to participate in commercial transactions with a business, including, but not limited to offers of goods, cash, discounts on products or services, or other items, including the offering of free goods or services made in exchange for or with the intent to induce the recipient's willingness to receive information relating to a possible commercial transaction, except when done entirely within an enclosed structure.

OPC EMPLOYER. Any business or other person who directly hires or otherwise contracts with an OPC solicitor to conduct OPC activities on its behalf.

OPC SOLICITOR. Any person engaged in off-premises canvassing.

PRODUCT. The real property, timeshare interests, goods, edibles or services sold or offered for sale or rent.

REAL PROPERTY COMPRISING THE PRIMARY BUSINESS OF A RESORT OR COMMERCIAL LODGING ESTABLISHMENT. Only that portion of real property owned by a resort or commercial lodging establishment which is used exclusively for resort or commercial lodging activity. Such activity includes only the providing of lodging or ancillary services to the provision of lodging for the benefit of the establishment's guests.

SEDONA BUSINESS DISTRICT. That area depicted on the City of Sedona Business District Map.

SIDEWALK. Any outside walkway, public or private, used by pedestrians.

STREET. All that area dedicated to public use for public street purposes and is within the jurisdiction and control of the city or the Arizona Department of Transportation and shall include, but not be limited to public roadways, parkways and alleys.

C. *Limitations on off-premises canvassing activity.* No person shall engage in off-premises canvassing within the Sedona Business District except on real property comprising the primary business of a resort or commercial lodging establishment.

D. *Signage.*

1. It shall be unlawful for any person, company, corporation, OPC solicitor or OPC employer or entity engaged in the procurement of prospective customers for sales solicitation, presentation or substantially similar activity, to identify or advertise itself by means of any sign, that utilizes the following phrases or substantially similar phrases: “tourist information,” “tourist center,” “visitor information,” or “information center,” “activity center,” “activity information” unless:

a. The identity of the business is disclosed on the face of the sign in letters of sufficient size to be clearly readable to the public, but in no event less than 50% of the average size of the sign text, whichever is larger; and

b. The words “sales solicitation” are caused to be printed within 30 days after October 10, 2002, and thereafter remain in an unobscured manner, in at least clearly readable 3/4-inch block letters within 2 feet of aforementioned signage concerning tourist or visitor information either on the doors to the building, or on the exterior wall of the building immediately adjacent to the door; or, if the business operates from a booth within another business establishment, the same shall be printed on the front panel of the booth in a location clearly and consistently visible to any persons passing by.

c. The following notice is provided in clearly visible and readable 3/4-inch block letters on the doors of the building, or on the exterior wall of the building immediately adjacent to the doors or on any booth referred to in subsection b: “Complaints or concerns about sales solicitation activity may be reported to the Sedona Sales Solicitation Hot Line by calling: 928-***-****.” (Asterisks represent a phone number to be established by the city).

2. Such signs shall comply in all material respects with any ordinances or rules specifying signage standards within the city.

E. *Specific prohibitions and appropriate conduct.*

1. In addition to the provisions of any other applicable term of this article, it shall be considered unlawful and a violation of this article for an OPC solicitor to:

a. Interfere with or obstruct the free travel or passage of any pedestrian on any street or sidewalk or obstruct or otherwise impede any person’s free movement or access to or from any public street or sidewalk;

b. Throw, place or deposit solid waste, litter, paper, documents or handbills on any street or sidewalk;

c. Intentionally inflict emotional distress by verbal or physical harassment or coercion on any

person;

- d. Misrepresent in any way the price, quality or nature of the product being promoted;
- e. Misrepresent the source or sponsor of any information offered or provided;

f. OPC solicitors shall conduct themselves in accordance with the following standards:

i. No OPC solicitor shall touch a person without consent during a solicitation;

ii. No OPC solicitor shall solicit using any offensively loud sound, vociferous speech, boisterous conduct or profane or vulgar language;

iii. No OPC solicitor shall solicit an occupant of a vehicle in a public street whether the vehicle is moving, stopped, or parked.

F. *OPC Ombudsman/Review Board.*

1. An OPC Ombudsman shall be appointed by the City Council to address and refer written complaints concerning OPC solicitors or activities to the appropriate party (the complained of business, the OPC Review Board, Code Enforcement, and the like) with any recommended actions.

a. Copies of any written complaints or complaints received through the Solicitation Hotline concerning OPC solicitors or activities received by the city shall be forwarded to the OPC Ombudsman on at least a weekly basis.

b. The OPC Ombudsman shall have the authority to make 1 of the following recommendations:

i. That the complaint appears to be without merit, frivolous or without sufficient information to decide otherwise; and that no action is recommended;

ii. That the business or entity referred to in the complaint should handle the matter and provide sufficient documentation to the OPC Ombudsman that the issue was addressed;

iii. That the complaint be sent to the OPC Review Board for further investigation and possible action pursuant to subsection 2. below.

c. All recommendations made by the OPC Ombudsman shall be in writing and copies thereof shall be forwarded to the business that was referred to in the complaint or to the OPC employer if identified and to the city. Further, a copy of the complaint itself shall accompany the OPC Ombudsman's written recommendation that is sent to the business entity and, if possible, the OPC Ombudsman shall communicate any action or resolution of the problem to the complaining party.

2. An OPC Review Board shall be established and appointed by majority vote of the City Council for a test period of 1 year from date of enactment to address, review, investigate and refer written complaints concerning violations of this section related to OPC solicitors or activities to the City Attorney with any recommended actions. The OPC Review Board shall be made up of 3 persons consisting of a representative from each of the following organizations: the Sedona Main Street Program; the Sedona Oak Creek Chamber of Commerce; and the Sedona Timeshare Developers. An alternate representative from the Sedona Timeshare Developers shall also be appointed and shall be from a business other than the duly appointed timeshare

representative and shall serve on the Board concerning any complaints that may involve the employer of the primary timeshare representative. Both the timeshare representative and his or her alternate shall be from management rather than from the front-line sales force. The City Council shall receive and review input from these organizations with regard to the appointment of the OPC Review Board. At the end of the test period, the OPC Review Board may be extended for a period of time determined by majority vote of the City Council.

a. The OPC Review Board shall have the authority to make the following recommendations:

i. That a complaint appears to be without merit, frivolous, or without sufficient information to decide otherwise; and that no action is recommended;

ii. That formal review is required according to the following procedures:

(A) The OPC Review Board issues a formal inquiry to the business or entity referred to in the complaint.

(B) The business or entity referred to in the complaint provides a formal answer to the OPC Review Board within 5 business days of receipt of formal inquiry.

iii. The OPC Review Board reviews and investigates any response received by the business or entity in question. Upon review, the OPC Review Board may do the following: recommend to the City Attorney that no further action is necessary on the complaint; find that the business or entity referred to in the complaint handled the matter by addressing concerns to the satisfaction of the OPC Review Board and that further prosecution is not recommended. Notice of such recommendation shall be given to the City Attorney and to the complaining party. Recommend that the complaint be forwarded to the City Attorney for consideration of further action pursuant to subsections G.1. through 4. below.

3. The above procedures and any recommendations made by the OPC Review Board are advisory in nature and in no way limit the ultimate discretion of the City Code Enforcement Office or the City Attorney in determining whether or not to file or when to file civil or criminal charges.

G. *Violations and penalties.*

1. Any responsible OPC employer and each responsible OPC solicitor shall be jointly and severally liable for any violations of this article.

2. Any violation of the terms of this article shall be punishable by a civil fine up to \$500 per occurrence for an OPC employer, and up to \$250 per occurrence for a responsible OPC solicitor, or in the alternative 1 or both parties may be prosecuted as a class I misdemeanor. Repeat violations within any 30-day period may be punishable by a civil fine of up to \$1,000 per OPC employer violation, and \$500 per OPC solicitor violation, or as a class I misdemeanor. In addition, the city may bring suit for injunctive relief where warranted.

3. The Code Enforcement Division of the Community Development Department is charged with the implementation and enforcement of this article.

4. Alternatively, based on a recommendation from the OPC Review Board or in its own discretion, the Code Enforcement Division may provide 1 written warning to any offending OPC solicitor or OPC employer.

H. *Amendments.* This section is amended through adoption by reference of those amendments set forth in the public record created by Resolution No. 2003-____ and entitled "Proposed 2003 Amendments to the OPC

Ordinance, City Code Section 9-2-9.”

(Ord. 2002-10, passed - -; Res. 2002-24, passed - -; Am. Ord. 2003-15, passed 7-22-2003; Am. Ord. 2005-08, passed 6-24-2005; Am. Res. 2005-18, passed 5-24-2005)

§ 9-2-10 DROPPING LITTER FROM AIRCRAFT.

No person in any aircraft shall throw out, drop or deposit within the city any litter, handbill or any other object.

(Am. Ord. 08-97, passed - -)

§ 9-2-11 DEPOSIT OF LITTER ON OCCUPIED PRIVATE PROPERTY.

No person shall throw or deposit litter or place abandoned or junk vehicles on any occupied private property within the city, whether owned by such person or not, except that the owner or person in control of private property may maintain authorized private receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements upon any street, sidewalk or other public place or upon any private property.

§ 9-2-12 MAINTENANCE OF LITTER-FREE PREMISES.

The owner or person in control of any private property shall at all times maintain the premises free of litter and abandoned and junk vehicles, but this section shall not prohibit the storage of litter in authorized private receptacles for collection, or within any building when not in violation of any health, fire, building or any other regulation, ordinance, order or statute.

§ 9-2-13 VACANT LOTS.

No person shall throw or deposit litter or place abandoned or junk vehicles on any open or vacant private property within the city whether owned by such person or not.

§ 9-2-14 BUSINESS ESTABLISHMENTS; RECEPTACLES.

No person occupying or employed in any business establishment shall deposit any litter in any receptacle, unless such receptacle shall be provided with a lid of sufficient weight to prevent the escape of any litter from the receptacle. This provision shall not apply to boxes, either cardboard or wooden, not less than 6 inches square in size, provided a receptacle shall be provided of sufficient size to prevent such boxes from being carried or deposited by the elements upon any street, alley or other public place.

§ 9-2-15 UNSIGHTLY PREMISES.

Every person owning, managing, or having charge, control or occupancy of any real property in the city shall not allow any part of such property visible from the street or adjoining premises to become so unsightly or untidy as to substantially detract from the appearance of the immediate neighborhood or tend to threaten the safety and

welfare of the immediate neighborhood.

§ 9-2-16 JUNK VEHICLES.

All junk vehicles, or vehicles while being repaired or restored, shall be stored in an enclosed area by the owner or occupant of the property upon which such vehicle is located, so as not to be visible from any point outside of the property upon which the vehicle is stored or parked.

§ 9-2-17 ABANDONED VEHICLES.

A. No person shall abandon a vehicle upon any street or highway or on any other public land or private property.

B. The Chief of Police, or his designee, is hereby authorized to cause the removal, storage and disposition of abandoned vehicles on public or private property within the corporate limits of the city in accordance with A.R.S. §§ 28-4801 *et seq.*

§ 9-2-18 ABATEMENT OF NUISANCES.

Any public nuisance committed under this article may be abated in any manner provided by law.

§ 9-2-19 PENALTIES.

Any person, whether as principal, owner, agent, tenant, employee or otherwise who violates any provision of this article, or fails to comply with any provision of this article, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punishable as provided in Article 1-8 of this code. The conviction of any person hereunder shall not relieve such person from the responsibility to correct such violation, nor prevent the enforcement, correction or removal thereof in any manner authorized by law. Every day that a nuisance is permitted to exist, or caused to continue to exist under this article, shall be deemed a separate violation.

ARTICLE 9-3: REMOVAL OF LITTER

Section

- 9-3-1 Notice of removal
- 9-3-2 Service of notice
- 9-3-3 Appeal to City Council
- 9-3-4 Removal by city
- 9-3-5 Lien for removal

§ 9-3-1 NOTICE OF REMOVAL.

A. To compel the removal of litter through the provisions of this section and of §§ 9-3-2 through 9-3-5, if a person owning or controlling any property fails, neglects or refuses to remove or properly dispose of litter, located on property owned or controlled by such person, both the owner of the property and the person who is in control of the property shall be given written notice by the code enforcement officer to remove all litter from such property prior to the date of compliance on the notice, which date shall be not less than 30 days from the date the notice was received by the owner or person in control of the property.

B. Such notice shall be received not less than 30 days before the date set thereon for compliance and shall contain an estimate of the cost of removal by the city, a statement that unless the person owning or controlling such property complies with such written notice, the city will, at the expense of both the person owning and the person controlling said property, perform the necessary work at a cost not to exceed the estimate given in the notice, and that the owner or the controller of the property may appeal in writing to the code enforcement officer within 10 days from the date the notice is received by him.

§ 9-3-2 SERVICE OF NOTICE.

Notice shall be either personally served or mailed to the owner or person controlling such property, at his last known address or the address to which the tax bill for the property was last mailed, by certified or registered mail. If the owner does not reside on such property, a duplicate notice shall also be sent to him at his last known address.

§ 9-3-3 APPEAL TO CITY COUNCIL.

Prior to the date set for compliance on the notice, the owner or person controlling such property may appeal in writing to the City Council from the demand of the notice. The City Council shall hear and determine the same and the decision of the City Council shall be final. The City Council may either affirm or reverse the decision or

modify the scope of the work as required in the notice.

§ 9-3-4 REMOVAL BY CITY.

A. When any person to whom notice, as aforesaid, has been given, and on or before the date of compliance on the notice, or within such further time as may have been granted by the Council on appeal, fails, neglects or refuses to move from such property any or all litter, the code enforcement officer is authorized and directed to cause same to be removed and disposed of at the expense of the owner or person controlling such property.

B. Upon completion of the work, the code enforcement officer shall prepare a verified statement of account of the actual cost of such removal or abatement, the date the work was completed, and the street address and the legal description of the property on which the work was done, including 5% for additional inspection and other incidental costs in connection therewith, and shall serve a duplicate copy of such verified statement upon the person owning or controlling such property in the manner prescribed in § 9-3-2.

C. The owner or person controlling such property shall have 30 days from the date of service upon him to appeal in writing to the Council from the amount of the assessment as contained in the verified statement.

D. If an appeal is not filed with the code enforcement officer within such 30-day period, then the amount of the assessment as determined by the code enforcement officer shall become final and binding.

E. If an appeal is taken, the Council shall, at its next regular meeting, hear and determine the appeal and may affirm the amount of the assessment, modify the amount thereof, or determine that no assessment at all shall be made. The decision of the Council shall be final and binding on all persons.

§ 9-3-5 LIEN FOR REMOVAL.

A. If no appeal is taken from the amount of the assessment, or if an appeal is taken and the Council has affirmed or modified the amount of the assessment, the original assessment or the assessment as so modified shall be recorded in the office of the County Recorder in which county the lot or tract is located and, from the date of its recording, shall be a lien on the lot or tract of land until paid. The liens shall be subject and inferior to the lien for general taxes and to all prior recorded mortgages and encumbrances of record.

B. A sale of the property to satisfy a lien obtained under the provisions of this section shall be made upon judgment of foreclosure or order of sale. The city shall have the right to bring an action to enforce the lien in the superior court of the county in which the property is located at any time after the recording of the assessment, but failure to enforce the lien by such action shall not affect its validity.

C. The recorded assessment shall be prima facie evidence of the truth of all matters recited therein and of the regularity of all proceedings prior to the recording thereof. A prior assessment for the purpose provided in this section shall not be a bar to a subsequent assessment or assessments for such purposes, and any number of liens on the same lot or tract of land may be enforced in the same action.

ARTICLE 9-4: SOUND REGULATIONS; SOUND CONTROL

Section

- 9-4-1 Declaration policy
- 9-4-2 Definitions
- 9-4-3 Applicability
- 9-4-4 Sound control administrator
- 9-4-5 Sound control officers
- 9-4-6 Maximum permissible sound levels
- 9-4-7 Procedures for the determination of sound levels
- 9-4-8 Inspections
- 9-4-9 Exceptions
- 9-4-10 Restricted uses and activities
- 9-4-11 Enforcement
- 9-4-12 Temporary sound permit
- 9-4-13 Severability

§ 9-4-1 DECLARATION POLICY.

A. WHEREAS noise has been proven to have demonstrable adverse physiological, biochemical and psychological impacts on humans; and,

B. WHEREAS the noxious stimulus of noise has long been used as a laboratory model for producing stress; and,

C. WHEREAS noise has been clearly implicated in sleep disturbance resulting in a cascade of negative effects; and,

D. WHEREAS the stress, tension and fatigue associated with long-term exposure to noise has destroyed marriages, cost people their jobs and forced other people to sell their houses at significant losses; and,

E. WHEREAS a substantial body of science and technology exists by which excessive sound may be substantially abated; and,

F. WHEREAS the people have a right to, and should be ensured of, an environment free from excessive sound; and,

G. WHEREAS every citizen has a right to the peaceable enjoyment of their private property, and the usability of their commercial and industrial property.

Now THEREFORE, it is the policy of the City of Sedona to prevent excessive sound that may jeopardize the health, welfare, or safety of the citizens or degrade the quality of life.

(Am. Res. 01-29, passed 7-24-2001)

§ 9-4-2 DEFINITIONS.

For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

“A” WEIGHTED SOUND LEVEL. The sound level as measured using the “A” weighting network with a sound level meter meeting the standards set forth in ANSI S1.4-1983 or its successors. The unit of reporting is dB(A). Sounds measured with the “A” weighting network approximate the response of human hearing when measuring sounds of low to moderate intensity.

ANSI. The American National Standards Institute which serves as the administrator and coordinator of the United States private sector voluntary standardization system. ANSI facilitates development of American National Standards (ANSs) by establishing consensus among qualified groups. ANSs in the fields of acoustics and sound measurement are developed by the Acoustical Society of America in order to standardize practices and equipment.

BOOM BOX. A colloquial term for self-contained, portable, hand-held music or sound amplification or reproduction equipment emitting sound that is audible at distances exceeding the permissible limits established within this article.

BOOM CAR. A colloquial term for a personal or commercial vehicle with music amplification or reproduction equipment emitting sound that is audible at distances exceeding the permissible limits established within this article.

“C” WEIGHTED SOUND LEVEL. The sound level as measured using the “C” weighting network with a sound level meter meeting the standards set forth in ANSI S1.4-1983 or its successors. The unit of reporting is dB(C). The “C” weighting network is more sensitive to low frequencies than is the “A” weighting network.

COMMERCIAL FACILITY. Uses located within C1, C2, and C3 zoning districts, as defined in the City of Sedona Land Development Code.

COMMUNITY SERVICE FACILITY. Any non-residential facility used to provide services to the public, including but not limited to:

1. Club meeting halls, offices and facilities;
2. Organization offices and facilities;

3. Facilities for the support and practice of religion;
4. Private and parochial schools;
5. Libraries, hospitals, medical facilities.

CONSTRUCTION. Any site preparation, assembly, erection, repair, alteration or similar action, including demolition of buildings or structures.

CONTINUOUS SOUND. Any sound with a duration of more than 1 second, as measured with a sound level meter set to the “slow” meter response. Impulsive sounds that are rapidly repetitive and have a duration of 1 second or longer, such as a jack hammer or hammer hoe, shall be measured as continuous airborne sound.

DECIBEL (dB). A relative unit for the measurement of sound pressure. It is based upon a reference pressure of 20 micropascals (zero decibels) which is the average threshold of hearing for a human with acute hearing.

DEMOLITION. Any dismantling, destruction or removal of buildings, structures, or roadways.

EMERGENCY ENERGY RELEASE DEVICE. A device used specifically to release excess energy on a non-scheduled basis as necessary for purposes of safety and not as a part of routine process control.

EMERGENCY WORK. Any work or action necessary to deliver essential public services, including, but not limited to, repairing water, gas, electricity, telephone, sewer facilities, or public transportation facilities, removing fallen trees on public rights-of-way, dredging or repairing in any floodway or flood hazard area, or abating life-threatening conditions.

ENFORCEMENT AGENCY. The City of Sedona code enforcement officer, Sound Control Administrator, City of Sedona police officer or any other said persons as designated by the Sound Control Administrator, or Police Department.

ENGINE COMPRESSION BRAKING. The action taken by the operator of a diesel truck or bus to reduce speed by activating a device in order to secure compression braking of the engine.

EXTRANEIOUS SOUND. A sound which is relatively intense, intermittent and of short duration and is neither part of the neighborhood residual sound, nor comes from the sound source under investigation. These sources of sound are noted, but excluded from all measurements.

FREQUENCY. The time rate of repetition of sound waves in cycles per second, reported as Hertz (Hz). **FREQUENCY** is sometimes colloquially referred to as **PITCH**. Low frequency sounds can correspond to the bass notes in music. Low frequency sound waves travel farther and penetrate structures more efficiently than high frequency sound waves.

HOLIDAY or LEGAL HOLIDAY. Any federal, state or city recognized holiday.

IMPULSIVE SOUND. Either a single pressure peak or a single burst (multiple pressure peaks) that has a duration of less than 1 second such as a car backfire, dynamite blast or other such single burst.

INDUSTRIAL FACILITY. Any activity and its related premises, property, facilities, or equipment involving the fabrication, manufacture, or production of durable or non durable goods.

MOTOR VEHICLE. Any vehicle that is propelled other than by human or animal power on land.

MUFFLER. A properly functioning sound dissipative device or system for abating the sound of escaping

gasses on equipment where such a device is part of the normal configuration of the equipment. A motor vehicle is not considered to be properly muffled if its muffler is either malfunctioning or if it is equipped with an after market muffler designed to increase the intensity of sound emissions over those of the stock muffler which was installed by the vehicle's manufacturer.

MULTI-DWELLING UNIT BUILDING. Any building comprising 2 or more dwelling units, including, but not limited to, apartments, condominiums, co-ops, multiple family houses, townhouses, and attached residences.

MULTI-USE PROPERTY. Any distinct parcel of land that is used for more than 1 category of activity. Examples include, but are not limited to:

1. A commercial, residential, industrial or public service property having boilers, incinerators, elevators, automatic garage doors, air conditioners, laundry rooms, utility provisions, or health and recreational facilities, or other similar devices or areas, either in the interior or on the exterior of the building, which may be a source of elevated sound levels at another category on the same distinct parcel of land; or
2. A building which is both commercial (usually on the ground floor) and residential property located above, behind, below or adjacent.

NEIGHBORHOOD RESIDUAL SOUND LEVEL. That measured value which represents the summation of the sound from all of the discrete sources affecting a given site at a given time, exclusive of extraneous sounds, and those from the source under investigation. Neighborhood residual sound level is synonymous with background or ambient sound level. Neighborhood residual sounds are differentiated from extraneous sounds by the fact that the former are more steady state, although they may not be continuous.

PLAINLY AUDIBLE. Any sound that can be detected by a person using his or her unaided hearing faculties. As an example, if the sound source under investigation is a portable or personal vehicular sound amplification or reproduction device, boom box or boom car, the detection of the rhythmic bass component of the music is sufficient to verify plainly audible sound. The sound control officer or police officer need not determine the title, specific words, or the artist performing the song and shall not require the use of a sound meter to determine plainly audible.

PRIVATE RIGHT-OF-WAY. Any street, avenue, boulevard, road, highway, sidewalk, alley or easement that is owned, leased, or controlled by a non-governmental entity.

PUBLIC RIGHT-OF-WAY. Any street, avenue, boulevard, road, highway, sidewalk, alley or easement that is owned, leased, or controlled by a governmental entity.

PUBLIC SERVICE FACILITY. Any facility and its related premises, property or equipment used to provide governmental services to the public including, but not limited to:

1. Maintenance centers;
2. Offices and buildings of agencies or instrumentalities of government;
3. Schools, parks, recreation centers;
4. Waste collection centers;

5. Waste recycling centers;
6. Water and sewage facilities.

PUBLIC SPACE. Any real property or structures thereon that are owned, leased, or controlled by a governmental entity.

REAL PROPERTY LINE. Either:

1. The imaginary line, including its vertical extension that separates 1 parcel of real property from another;
2. The vertical and horizontal boundaries of a dwelling unit that is part of a multi-dwelling unit building; or
3. On a multi-use property, the interface between the 2 portions of the property on which different categories of activity are being performed (such as, if the multi-use property is a building which is residential upstairs and commercial downstairs, then the real property line would be the interface between the residential area and the commercial area).

RESIDENTIAL PROPERTY. Property used for human habitation, including, but not limited to:

1. Private property used for human habitation;
2. Commercial living accommodations and commercial property used for human habitation;
3. Recreational and entertainment property used for human habitation;
4. Community service property used for human habitation;
5. Hospitals or long-term care medical facilities.

SOUND CONTROL ADMINISTRATOR. The Development Services Supervisor or designee shall act as the Sound Control Administrator, “SCA,” for the purposes of the article.

SOUND CONTROL OFFICER. A government employee who has received noise enforcement training and is currently certified in noise enforcement. The employee must be acting within his or her designated jurisdiction and must be authorized to issue a civil citation in order to be considered a sound control officer. The provisions of this code that do not require the use of a sound level meter may be enforced by any code enforcement or police officer.

SOUND REPRODUCTION DEVICE. Any machine or device by which the human voice, music or any other sound is amplified. Sound reproduction device shall not include warning devices on any vehicle traveling to do emergency work or used for traffic safety purposes.

SOUND SENSITIVE. A facility whose operations may be detrimentally impacted by excessive sound levels. Such facilities include but are not limited to:

1. Schools;
2. Houses of worship;
3. Out patient medical facilities, hospitals, or nursing home;

4. Library.

SOUND LEVEL METER. An instrument that conforms to ANSI S1.4-1983 or its successors.

STEADY PURE TONE. A sound for which the sound pressure is a simple sinusoidal function of the time and characterized by its singleness of pitch.

TOTAL SOUND LEVEL. That measured level which represents the summation of the sounds from the sound source under investigation and the neighborhood residual sounds which affect a given place at a given time, exclusive of extraneous sound sources.

WEEKDAY. Monday through Friday, inclusive.

WEEKENDS. Saturday and Sunday.

§ 9-4-3 APPLICABILITY.

This code applies to all sound sources within the city unless otherwise exempted.

§ 9-4-4 SOUND CONTROL ADMINISTRATOR.

The Sound Control Administrator shall have the power to:

- A. Coordinate the noise control activities of all departments in the city and cooperate with all other public bodies and agencies to the extent practicable; and
- B. Review the actions of the city and advise of the effect, if any, of such actions on noise control; and
- C. Review public and private projects, subject to mandatory review or approval by other departments or boards, for compliance with this ordinance; and
- D. Promulgate and publish rules and procedures, in accordance with the Sedona City Code, to establish techniques for measuring noise and to provide for clarification, interpretation, and implementation of this chapter; and
- E. Review at least every 3 years the provisions of this chapter and recommend revisions consistent with technology to reduce noise or to address new sound sources within the city.

§ 9-4-5 SOUND CONTROL OFFICERS.

The provisions of the ordinance set forth in this section shall be enforced by sound control officers. A person shall be qualified to be a sound control officer if the person meets the criteria set forth in the definition above and

completes, with a passing grade, a sound enforcement certification course and thereafter a biennial re-certification course as offered by the Rutgers Noise Technical Assistance Center, Department of Environmental Science, the State University of New Jersey at Rutgers, or other similar noise enforcement certification course as approved by the Administrator. The provisions of this code that do not require the use of a sound level meter may be enforced

by any code enforcement, police officer or designated Police Department employee. Sound control officers shall have the power to:

A. Investigate and pursue possible violations of the ordinance set forth in this article for sound levels which equal or exceed the sound levels set forth in Table I, when measured at a receiving property located within the designated jurisdiction of the sound control officer, in accordance with § 9-4-6 below;

B. Cooperate with sound control officers of adjacent jurisdictions in enforcing one another's noise ordinances.

§ 9-4-6 MAXIMUM PERMISSIBLE SOUND LEVELS.

A. *Continuous sound.*

1. No person shall cause, suffer, allow, or permit the operation of any source of sound on any source property listed in § 9-4-31. above in such a manner as to create a sound level that exceeds the sound level limits listed in Table I, as measured at any location at or within the property line of the receptor property. Sound pressure levels in excess of those established in Table I shall constitute prima facie evidence that such sound is in violation of this code.

TABLE I
MAXIMUM PERMISSIBLE SOUND LEVEL LIMITS
dB(A)

<i>Residential and all Other Zones</i> <i>7:00 a.m. - 10:00 p.m.</i>	<i>Residential and all Other Zones</i> <i>10:00 p.m. - 7:00 a.m.</i>	<i>C1, C2, C3 Zone Districts</i> <i>24 hours</i>
60	50	65

2. These limits may not be exceeded by any single incident representing the normal, usual operation of the sound source, during any 3 sampling intervals, the duration of which shall be no less than 1/2-minute, within any 1 hour period. If the total duration of the sound under investigation is less than 1-1/2 minutes, the requirement for 3 measurements shall be waived. For example, if a motor fan belt were to squeal for 20 seconds upon starting, but the sound were emitted with regularity from this source, a single measurement shall be sufficient.

3. Nothing in this section supersedes the requirements of employers to comply with the Occupational Noise Exposure Standard of the Occupational Safety and Health Administration (29 C.F.R. Part 1910.95). Compliance will help conserve workers' hearing and reduce potential liability for the source.

B. *Impulsive sound.*

1. Between 7:00 a.m. and 10:00 p.m., impulsive sounds which occur less than 10 times in an hour shall not equal or exceed 20 decibels above the permissible sound level limits in Table I. Impulsive sound which repeats 10 or more times in any hour shall not exceed the permissible sound level limits in Table I.

2. Between the hours of 10:00 pm and 7:00 a.m., impulsive sounds which occur less than 4 times in an hour shall not equal or exceed 20 decibels above the permissible sound level limits in Table I. Impulsive sound which repeats 4 or more times in any hour shall not exceed the permissible sound level limits in Table I.

C. *Amplified sound reproduction device.* If the source of sound is an amplified sound reproduction device, and the complainant states that the rhythmic bass component of the music is disturbing within their residence, then the noise enforcement officer may take sound level measurements within the residence of the complainant. No person shall cause, suffer, allow, or permit the operation of any amplified source of sound in such a manner that it raises the total sound levels above the permissible sound level limits set forth in Table II when measured within the residence of a complainant. These sound level measurements shall be conducted with the sound level meter set for “C” weighting, “fast” response. Such measurements shall not be taken in areas which receive only casual use such as hallways, closets and bathrooms. For the purposes of these measurements, the neighborhood residual sound level is that sound level which is measured in the residence when the sound source under investigation is not prominent, or in a room on the same floor that is relatively unaffected by the sound source under investigation. The C-scale is more sensitive to low frequency sound levels than the A-scale. An increase of 3 dB is perceived by humans as being perceptibly louder, while an increase of 5 dB is perceived as being plainly louder. At the lower bass frequencies of music an increase of 6 dB is perceived as a doubling of loudness.

TABLE II
AMPLIFIED SOUND REPRODUCTION DEVICE MAXIMUM PERMISSIBLE SOUND
LEVEL LIMITS INDOOR ACROSS A REAL PROPERTY LINE
dB(C) ABOVE NEIGHBORHOOD RESIDUAL SOUND LEVEL

<i>10:00 p.m. to 7:00 a.m.</i>	<i>All Other Times</i>
3 db(C)	5 db (C)

D. *Steady pure tones.* If the sound source under investigation is a mechanical device, and is in the investigating officer’s opinion emitting a sound with a steady tonal quality, the permissible sound level limits in Table I shall be reduced by 5 dBA. The sound emissions must be comprised of a single frequency or a narrow cluster of frequencies, which may be referred to as a whine, hum or buzz. The measured sound levels of such a source must not fluctuate by more than plus or minus 3 dB. Such sound sources include, but are not limited to: heating, ventilating or air-conditioning units; refrigeration units; transformers and pumps.

§ 9-4-7 PROCEDURES FOR THE DETERMINATION OF SOUND LEVELS.

A. The sound level shall be measured with a sound level meter. The sound level meter and calibrator must be recertified annually at a laboratory approved by the Administrator. A field check of meter calibration and batteries must be conducted before and after every set of measurements and at least every hour as necessary.

B. Total and neighborhood residual sound level measurements shall be taken in accordance with

procedures approved by the Administrator. Calculation of source sound levels shall conform with accepted practice.

§ 9-4-8 INSPECTIONS.

A. For the purpose of determining compliance with the provisions of this chapter, the administrator or his or her authorized representatives are hereby authorized to make inspections of all noise sources and to take sound level measurements and tests whenever necessary. If any person refuses or restricts entry and free access to any part of a premise, or refuses inspection, testing, or sound level measurement of any activity, device, facility, motor vehicle or process where inspection is sought, the Administrator or their authorized representative may seek from a court of competent jurisdiction a warrant for inspection requiring that such person permit entry and free access without interference, restriction or obstruction (at a reasonable time) for the purpose of inspecting, testing, or measuring sound levels. The court shall have power, jurisdiction and authority to enforce all orders issued under the provisions of this chapter.

B. It shall be unlawful for any person to refuse to allow or permit the Administrator or their authorized representative free access to any premise when he or she or her or his authorized representative is acting in compliance with a warrant for inspection.

C. No person shall hinder, obstruct, delay, resist, prevent or in any way interfere, or attempt to interfere with any authorized person while in the performance of their duties under this chapter.

D. It shall be unlawful for any person to misrepresent or give any false or inaccurate information or in any way attempt to deceive the Administrator or their authorized representative in order to avoid compliance with the provisions of this chapter.

§ 9-4-9 EXCEPTIONS.

The operational performance standards established in this subchapter shall not apply to any of the following noise sources:

A. Unamplified bells, chimes or carillons while being used in conjunction with an ongoing religious service;

B. Emergency energy release devices; or any emergency or safety warning devices, such as, but not limited to, vehicle horns or back-up beepers;

C. Emergency work;

D. National Warning System (NAWAS): systems used to warn the community of attack or imminent public danger such as flooding, explosion or hurricane;

E. Noise of aircraft operation;

F. Sound from the locomotion of properly muffled motor vehicles on a public right-of-way or residential driveway;

G. Sound from any mobile garbage collection vehicle;

H. Fireworks on Independence day are allowed until 11:00 p.m.

§ 9-4-10 RESTRICTED USES AND ACTIVITIES.

Notwithstanding the provisions of Table I and the exceptions above, the following standards shall apply to the activities or sources of sound set forth below.

A. Non-commercial or non-industrial power tools and landscaping and yard maintenance equipment shall not be operated between the hours of 8:00 p.m. and 7:00 a.m., unless such activities can meet the applicable limits set forth in Table I. All engine driven equipment used in these activities shall be operated with a muffler. At all other times, the limits set forth in Table I do not apply to non-commercial or non-industrial power tools and landscaping and yard maintenance equipment.

B. Commercial or industrial power tools and landscaping and yard maintenance equipment, excluding emergency work, shall not be operated on a residential property or within 250 feet of a residential property line when operated on commercial or industrial property, between the hours of 6:00 p.m. and 7:00 a.m. on weekdays, or between the hours of 6:00 p.m. and 9:00 a.m. on weekends or federal holidays, unless such activities can meet the limits set forth in Table I. In addition, commercial or industrial power tools and landscaping and yard maintenance equipment, excluding emergency work, utilized on commercial or industrial property shall meet the limits set forth in Table I between the hours of 10:00 p.m. and 6:00 a.m. All engine driven equipment used in these activities shall be operated with a muffler. At all other times, the limits set forth in Table I do not apply to commercial or industrial power tools and landscaping and yard maintenance equipment.

C. For construction and demolition activity, the limits set forth in Table 1 do not apply between the hours of 6:00 a.m. and 9:00 p.m., Monday through Saturday, at all other times the limits set forth in Table 1 shall apply. All motorized equipment used in construction and demolition activity shall be operated with a muffler. Construction tools or equipment shall be in good working condition and shall be operated properly according to the manufacturers' instructions and applicable federal and state regulations. The delivery, placement and finishing of concrete and stucco may begin ½- hour before sunrise during the period from May 1 through September 30 of each year.

D. An exterior burglar alarm of a building or motor vehicle must be activated in such a manner that the burglar alarm terminates its operation within 5 minutes for continuous airborne sound and 15 minutes for impulsive sound after it has been activated. At all times, the limits set forth in Table I do not apply.

E. Domesticated or caged non-farm animals may not bark, squeal, crow, howl or make any other such noises for more than 5 minutes if continuous or more than 15 minutes if intermittent. At all times, the limits set forth in Table I do not apply.

F. Personal or commercial vehicular music amplification or reproduction equipment, including but not limited to vehicles referred to as "boom cars" or "broadcast vehicles," shall not be operated in such a manner as to be plainly audible at a distance of 75 feet in any direction from the equipment between the hours of 8:00 a.m. and 10:00 p.m. Between the hours of 10:00 p.m. and 8:00 a.m., such equipment shall not be operated in such a manner that it is plainly audible at a distance of 25 feet in any direction.

G. Self-contained, portable, hand-held music or sound amplification or reproduction equipment, including

but not limited to devices referred to as “boom boxes,” radios stereos, or any similar device shall not be operated on a public space or public right-of-way in such a manner as to be plainly audible at a distance of 50 feet in any direction from the operator between the hours of 8:00 a.m. and 10:00 p.m. Between the hours of 10:00 p.m. and 8:00 a.m., sound from such equipment shall not be plainly audible by any person other than the operator.

§ 9-4-11 ENFORCEMENT.

A. This section governs the initiation of enforcement actions and the imposition of civil penalties for violations of this code.

B. If a person violates any provision of this code, or an order issued by the enforcement agency, the agency may institute an action in a court of competent jurisdiction for injunctive relief to prohibit and prevent such violation or violations and the court may proceed in the action in a summary manner.

C. Any person who violates any provision of this code shall be subject, upon order of a court, to a civil penalty of not more than \$2,500 for each offense, and each day during which the violation continues shall constitute an additional, separate and distinct offense.

D. The enforcement agency must determine whether the violation is a major or minor violation for the purposes of issuing an enforcement and compliance grace period. A violation is deemed to be minor if:

1. The violation is not the result of purposeful, reckless or criminally negligent conduct of the violator; or

2. The activity or condition constituting the violation has not been the subject of an enforcement action against the violator in the immediately preceding 12 months; and

3. The violation is not the result of the operation of a sound reproduction or amplification device of any kind, with the exception of safety warning devices.

E. If the violation is deemed to be minor, the enforcement agency shall notify the violator that the activity or condition must be corrected and compliance achieved at the discretion of the enforcement agency, not to exceed 180 days, to be determined based upon the nature, extent and impact of the violation and a reasonable estimate of the time needed to correct the violation. The violator may request, from the enforcement agency, an extension of the compliance deadline and the enforcement agency may approve any reasonable request for an extension if the violator can demonstrate that a good faith effort has been made to achieve compliance. The Sound Control Administrator shall offer special consideration, during the 6-month period immediately following final enactment of this code, for preexisting sound sources, which will require physical modifications to come into compliance.

F. If the violation is deemed to be minor, the enforcement agency shall notify the violator that if he or she achieves compliance within the period of time specified in the enforcement document, the enforcement agency shall not seek to collect a civil penalty from the violator for that violation.

G. If, during the grace period, the sound emissions for which the violation has been assessed increase in duration or intensity, the Sound Control Administrator may revoke the grace period. In determining whether to revoke the grace period, the Sound Control Administrator may consider the following factors: the relative increase intensity; whether the change of sound emissions is directly related to ongoing sound abatement measures; and the anticipated duration of the increased sound levels.

H. If the violator does not correct a minor violation within the period of time specified in the enforcement document, the enforcement agency may seek injunctive relief and/or a penalty for a violation of this code. If the enforcement agency has reason to believe that the violator is not acting in good faith during the grace period, they may conduct further investigations during that period, and if the violator has not achieved compliance within the

period of time specified in the enforcement document, the enforcement agency may prosecute any violations documented during the grace period.

I. If the violation is not deemed to be minor, it shall be deemed major and the enforcement agency shall notify the violator that he or she will not be allowed a period of time to correct the violation before a penalty is sought, and that he or she may be liable to a class 1 misdemeanor of no more than \$2,500 for that violation and that the enforcement agency may seek summary injunctive relief.

J. Any claims for a civil penalty may be compromised and settled based upon the following factors:

1. Mitigating or other extenuating circumstances;
2. The timely implementation by the violator of measures which lead to compliance;
3. The conduct of the violator; and
4. The compliance history of the violator.

§ 9-4-12 TEMPORARY SOUND PERMIT.

A. Any person who owns or operates a sound source in 1 of the following categories may apply for a temporary sound permit from the Sound Control Administrator to temporarily exceed sound levels as set forth in Tables I and II, or any other provisions of this code:

1. Private or public celebrations;
2. Night time construction projects;
3. Homeowner construction projects;
4. Any other activity as determined by the Sound Control Administrator.

B. Applications for a temporary sound permit shall supply information including, but not limited to:

1. The nature and location of the noise source for which such application is made;
2. The reason for which the temporary sound permit is requested, including the hardship that will result to the applicant, his client, or the public if the temporary sound permit is not granted;
3. The nature and intensity of noise that will occur during the period of the permit; and
4. A description of interim noise control measures to be taken by the applicant to minimize noise and the impacts occurring there from;

5. The name, address and means of contacting a responsible party during the hours of operation for which the temporary sound permit is issued.

C. In making the determination on granting a permit and in the sole discretion of the Sound Control Administrator, the Administrator may consider the following:

1. The character and degree of injury to, or interference with, the health and welfare of the reasonable use of property which is caused or threatened to be caused by the sound, to result from the temporary sound permit;
2. The social and economic value of the activity for which the permit is sought;
3. The ability of the applicant to apply best practical noise control measures.

D. The temporary sound permit shall enumerate the conditions of the permit, including:

1. Specific dates, times, duration, and distances for which the permit is valid;
2. Sound level limits which may not be exceeded at the nearest affected residential property;
3. Or any other such conditions that may mitigate any adverse impact upon the parties, as determined by the Sound Control Administrator.

E. The temporary sound permit may be revoked by the Sound Control Administrator, if terms of the permit are violated.

F. A permit may be revoked by the Sound Control Administrator, and the issuance of future permits withheld, if there is:

1. Violation of 1 or more conditions of the permit;
2. Material misrepresentation of fact in the permit application; or
3. Material change in any of the circumstances relied upon by the Sound Control Administrator in granting the permit.

§ 9-4-13 SEVERABILITY.

If any provision or portion of a provision of the ordinance set forth in this chapter is held to be unconstitutional, preempted by federal or state law, or otherwise invalid by any court of competent jurisdiction, the remaining provisions of the ordinance shall not be invalidated.

ARTICLE 9-5: BODY ART REGULATIONS

Section

- 9-5-1 Body art
- 9-5-2 Definitions
- 9-5-3 Prohibitions
- 9-5-4 Exemptions
- 9-5-5 Permit requirements
- 9-5-6 Temporary demonstration permit requirements
- 9-5-7 Requirements for premises
- 9-5-8 Body art operators/technician requirements and professional standards
- 9-5-9 Public notification requirements
- 9-5-10 Client records
- 9-5-11 Records retention
- 9-5-12 Preparation and care of the body art area
- 9-5-13 Sanitation and sterilization procedures
- 9-5-14 Requirements for single-use items
- 9-5-15 Enforcement
- 9-5-16 Suspension or revocation of permits
- 9-5-17 Interpretation
- 9-5-18 Codification

§ 9-5-1 BODY ART; FINDINGS AND PURPOSE.

This article is based on the following findings and purposes.

- A. Body art is becoming prevalent and popular in the city.
- B. Injuries, infections and occasional transmission of diseases such as hepatitis, HIV, or other communicable diseases are occurring as a result of improper body art or aftercare procedures.
- C. The general law as found in A.R.S. § 13-3721 makes certain body art practices unlawful but does not regulate or license body art establishments, and there are no state regulations governing body art licensing or sanitation practices. The city is committed to requiring a license for a body art establishment and body art operators as the most effective means of administering and regulating a public health program with sanitation standards, training requirements, and client education and disclosure.

D. It is the mission of the city to prevent disease and to provide a healthful environment for all citizens of the city. The ordinance set forth in this article is therefore directed to the licensing and enforcement of body art regulations.

(Ord. 2003-01, passed 1-14-2003)

§ 9-5-2 DEFINITIONS.

For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AFTERCARE. Written instructions given to the client, specific to the body art procedure(s) rendered, about caring for the body art and surrounding area. These instructions will include information about when to seek medical treatment, if necessary.

ANTISEPTIC. An agent that destroys disease-causing microorganisms on human skin or mucosa.

BLOODBORNE PATHOGENS. Pathogenic microorganisms that are present in human blood and can cause disease in humans. These pathogens include, but are not limited to, hepatitis B virus (HBV), hepatitis C virus (HCV), and human immunodeficiency virus (HIV).

BODY ART. The practice of physical body adornment by permitted establishments and operators using, but not limited to, the following techniques: body piercing, tattooing, cosmetic tattooing, permanent skin coloring, branding, and scarification. This definition does not include practices that are considered medical procedures by a state medical board, such as implants under the skin, which shall not be performed in a body art establishment, practices that are noninvasive forms of painting by use of dyes or inks, or practices considered by the State Board of Cosmetology to be Aesthetics, Cosmetology or Nail Technology.

BODY ART ESTABLISHMENT. Any place or premise, whether public or private, temporary or permanent, in nature or location, where the practices of body art, whether or not for profit, are performed.

BODY PIERCING. Puncturing or penetration of the skin of a person with pre-sterilized single-use needles and the insertion of pre-sterilized jewelry or other adornment thereto in the opening, including puncturing the outer perimeter or lobe of the ear with a pre-sterilized single-use needle. Under no circumstances shall stud-and-clasp ear piercing guns or systems be used anywhere on the body, except on the outer lobe of the ear. All stud-and-clasp ear piercing guns and systems must be capable of being sterilized.

CITY. The City of Sedona.

CLEANING AREA. The area in a body art establishment used in the sterilization, sanitization, or other cleaning of instruments or other equipment used for body art activity.

COMMUNICABLE DISEASE. Any disease transmitted from 1 person or animal to another directly, by contact with excreta or other discharges from the body; or indirectly, via substances or inanimate objects, such as

water or contaminated needles, or via vectors such as flies, ticks, or other insects. Kinds of communicable diseases include those caused by bacteria, fungi, parasites, and viruses.

CONTAMINATED WASTE. Any liquid or semi-liquid blood or other potentially infectious materials, contaminated items that would release blood or other potentially infectious materials in a liquid or semi-liquid state

if compressed, items that are caked with dried blood or other potentially infectious materials and are capable of releasing these materials during handling, or sharps and any wastes containing blood and other potentially infectious materials, as defined in 29 C.F.R. Part 1910.1030 (latest edition), known as “Occupational Exposure to Bloodborne Pathogens.”

COSMETIC TATTOOING. See ***TATTOOING.***

DEPARTMENT. The Coconino County Department of Health Services.

DISINFECTION. The destruction or inactivation or removal of disease-causing microorganisms on inanimate objects or surfaces, thereby rendering these objects safe for use or handling.

EAR PIERCING. The puncturing of the outer perimeter or lobe of the ear with a pre-sterilized single-use needle following manufacturer’s instructions. All ear piercing studs and clasp guns or systems must be capable of being sterilized.

EQUIPMENT. All machinery, including fixtures, containers, vessels, tools, devices, implements, furniture, display and storage areas, sinks, and all other apparatus and appurtenances used in connection with the operation of a body art establishment.

HAND SINK. A lavatory equipped with hot and cold running water under pressure, used solely for washing hands, arms, or other portions of the body.

HOT WATER. Water that attains and maintains a temperature of at least 100 degrees Fahrenheit.

INSTRUMENT SINK. A lavatory used solely for scrubbing instruments and utensils used in body art.

INSTRUMENT STORAGE AREA. The area in a body art establishment used in the storage of instruments, linens, and other items used in any body art activity.

INSTRUMENTS USED FOR BODY ART. Hand pieces, needles, needle bars, and other instruments that may come in contact with a client’s body or may be exposed to bodily fluids during body art procedures.

INVASIVE. Entry into the body either by incision or insertion of an instrument into or through the skin or mucosa, or by any other means intended to puncture, break, or compromise the skin or mucosa.

JEWELRY. Any personal ornament inserted into a newly pierced area, which must be made of surgical implant-grade stainless steel, solid 14k or 18k white or yellow gold, or raw titanium that has been properly sterilized prior to use.

LIQUID CHEMICAL GERMICIDE. A disinfectant or sterilant registered with the U.S. Environmental Protection Agency.

OPERATOR/TECHNICIAN. Any person who controls, operates, manages, conducts, or practices body art

activities at a body art establishment and who is responsible for compliance with these regulations, whether actually performing body art activities or not. The term includes technicians who work under the operator and perform body art activities.

PERMANENT SKIN COLORING. See ***TATTOOING.***

PERMIT. Written approval by the Department to operate a body art establishment. Approval is given in accordance with these regulations and is separate from any other licensing requirement that may exist within communities or political subdivisions comprising the jurisdiction.

PERSON. An individual, any form of business or social organization, or any other non-governmental legal entity, including, but not limited to, corporations, partnerships, limited-liability companies, associations, trusts, or unincorporated organizations.

PHYSICIAN. A person licensed by the State of Arizona to practice medicine in all its branches and may include other areas such as dentistry, osteopathy, or acupuncture, depending on the rules and regulations particular to that state.

PROCEDURE AREA. The area in a body art establishment which contains the workstation, cleaning area, and instrument storage area.

PROCEDURE SURFACE. Any surface of an inanimate object that contacts the client's unclothed body during a body art procedure, skin preparation of the area adjacent to and including the body art procedure, or any associated work area which may require sanitizing.

SANITIZATION PROCEDURE. A process of reducing the numbers of microorganisms on cleaned surfaces and equipment to a safe level as judged by public health standards and which has been approved by the Department.

SHARPS. Any objects (sterile or contaminated) that may purposefully or accidentally cut or penetrate the skin or mucosa, including, but not limited to, pre-sterilized single-use needles, scalpel blades, and razor blades.

SHARPS CONTAINER. A puncture-resistant, leak-proof container that can be closed for handling, storage, transportation, and disposal and that is labeled with the international bio-hazard symbol.

SINGLE USE. Products or items that are intended for one-time, one-person use and are disposed of after use on each client, including, but not limited to, cotton swabs or balls, tissues or paper products, paper or plastic cups, gauze and sanitary coverings, razors, piercing needles, scalpel blades, stencils, ink cups, and protective gloves. These items are neither designed nor intended to be cleaned, disinfected, or sterilized for reuse.

STERILIZATION. Destruction of all forms of microbial life, including highly resistant bacterial spores.

TATTOOING. Any method of placing ink or other pigment into or under the skin or mucosa by the aid of needles or any other instrument used to puncture the skin, resulting in permanent coloration of the skin or mucosa. This term includes all forms of cosmetic tattooing and permanent skin coloring such as eyeliner, eyebrows, lip liner, full lip color, repigmentation, or camouflage.

TEMPORARY BODY ART ESTABLISHMENT. Any place or premise operating at a fixed location where an operator performs body art procedures for no more than 7 days consecutively in conjunction with a single event or celebration.

UNIVERSAL PRECAUTIONS. A set of guidelines and controls published by the Centers for Disease Control and Prevention (CDC) as *Guidelines for Prevention of Transmission of Human Immunodeficiency Virus and Hepatitis B Virus to Health-Care and Public-Safety Workers* in Morbidity and Mortality Weekly Report (MMWR), June 23, 1989, Vol.38, No. S-6, and as *Recommendations for Preventing Transmission of Human*

Immunodeficiency Virus and Hepatitis B Virus to Patients During Exposure-Prone Invasive Procedures in MMWR, July 12, 1991, Vol.40, No. RR-8. This method of infection control requires the employer and the employee to assume that all human blood and specified human body fluids are infectious for HIV, HBV, and other blood pathogens. Precautions include hand-washing, gloving, personal protective equipment, injury prevention, and proper handling and disposal of needles, other sharp instruments, and blood and body fluid-contaminated products.

WORKSTATION. The area in a body art establishment used exclusively in and during the conduct of body art upon a client.

(Ord. 2003-01, passed 1-14-2003)

§ 9-5-3 PROHIBITIONS.

The following acts are prohibited.

A. It is prohibited to perform body art on any body part of a person under the age of 18 without the written consent and physical presence of the parent or legal guardian of such minor. This consent shall be given in person to the body artist or responsible person at the facility by the parent or legal guardian prior to the time application of the body art is to commence. Photographic identification of the parent or legal guardian is required. Proof of parentage by birth certificate, proof of guardianship by court order of guardianship, or a notarized document signed by the parent or legal guardian attesting to the parent's/legal guardian's relationship to the client and consent to the conduct of the contemplated body art activity upon the client shall be given to the operator prior to the procedure.

B. It is prohibited to tattoo or pierce the body of another person with a needle or any substance that will leave color under the skin more than once, or to use a needle that is not sterilized with equipment used by state licensed medical facilities pursuant to A.R.S. Title 36, Ch. 4.

C. It is prohibited to use a stud-and-clasp piercing gun or system more than once, unless the gun or system is capable of being disinfected and is actually disinfected after being used. If in the course of the piercing procedure the gun or system is exposed to blood, it must be autoclaved.

D. It is prohibited to administer anesthesia during the course of any procedure involving the branding, scarifying, tattooing, implanting, mutilating, or piercing of the body of another person without a license issued pursuant to A.R.S. Title 32.

E. It is prohibited to engage in the business of tattooing, branding, scarifying, implanting, mutilating, or body piercing out of a home or an impermanent structure, including a tent, trailer, trunk, or other impermanent structure.

F. It is prohibited to perform body art on a person who, in the opinion of the operator, is inebriated or appears to be under the influence of alcohol or drugs.

G. It is prohibited to own, operate, or solicit business as a body art establishment or operator without first obtaining all necessary permits and approvals from the Department, unless specifically exempted by these regulations.

H. It is prohibited to obtain or attempt to obtain any body art establishment or operator permit by means of fraud, misrepresentation, or concealment.

(Ord. 2003-01, passed 1-14-2003)

§ 9-5-4 EXEMPTIONS.

Physicians licensed by the State of Arizona who perform either independent of or in connection with body art procedures as part of patient treatment are exempt from these regulations.

(Ord. 2003-01, passed 1-14-2003)

§ 9-5-5 PERMIT REQUIREMENTS.

A. Establishment permit.

1. No person, firm, partnership, joint venture, association, business trust, corporation, or organized group of persons may operate a body art establishment except with a body art establishment permit from the Department.

2. Any person operating a body art establishment shall obtain an annual permit from the Department. The permit shall not be issued or renewed until the permit applicant/holder demonstrates that the sterilizer used is capable of attaining sterilization by monthly spore destruction tests and by chemical test strips. These tests shall be verified through an independent laboratory. Documentation of the sterilizer's ability to destroy spores must be received by the Department before the permit is issued or renewed. These test records shall be retained by the operator for a period of 3 years and made available to the Department upon request.

3. The applicant shall pay a reasonable fee as set by the Department for each body art establishment permit.

4. A permit for a body art establishment shall not be transferable from one place or person to another.

5. A current body art establishment permit shall be posted in a prominent and conspicuous area where it may be readily observed by clients.

6. The holder of a body art establishment permit must only hire operators who have complied with the operator permit requirements of these regulations.

B. Operator permit.

1. No person shall practice body art procedures without first obtaining an operator permit from the Department. Coconino County shall charge a reasonable fee for such permits, as set forth in the fee schedule adopted by Coconino County.

2. The operator permit shall be valid from the date of issuance and shall automatically expire in 2 years from the date of issuance unless revoked sooner by the Department in accordance with § 9-5-16.

3. Application for an operator permit shall include:

- a. Name;
 - b. Social Security and driver's license numbers;
 - c. Date of birth;
 - d. Sex;
 - e. Residence address;
 - f. Mailing address;
 - g. Phone number;
 - h. Place(s) of employment as an operator;
 - i. Training and/or experience;
 - j. Proof of attendance at a bloodborne pathogen training program (or equivalent) given or approved by the Department;
 - k. Proof of completion of the hepatitis B vaccination series or a written declination on the form provided by the Department.
4. Operator permits may be issued by the Department, after satisfaction of the following requirements:
- a. Applicant is free of communicable diseases that may be transmitted to a patron:
 - i. Unless the operator declines in writing on a form provided by the Department, before any operator permit may be issued or renewed, the applicant must be immunized against hepatitis B. In the event that such information is not obtained and filed in a timely fashion by any operator, the operator permit may be suspended or revoked in accordance with the procedures set forth in § 9-5-16 of these regulations;
 - ii. The operator must begin the hepatitis B vaccination series prior to being issued an operator permit unless he has previously received the complete hepatitis B vaccination series and can provide documentation to the Department, antibody testing has revealed that the operator is immune, the vaccine is contraindicated for medical reasons, or the operator has declined in writing on a form provided by the Department;
 - b. Applicant is a minimum of 18 years of age;
 - c. Applicant has a minimum of 6 months experience or training as a body art operator in a duly-licensed establishment in Arizona or another state with similar licensing standards;

d. Applicant has obtained a score of at least 80% on an examination of basic sanitation knowledge pertaining to body art, which will be administered by the Department.

5. No operator permit shall be issued unless, following reasonable investigation by the Department, the body art operator has demonstrated compliance with the provisions of this section and all other provisions of these regulations.

6. All operator permits shall be conditioned upon continued compliance with the provisions of this section, as well as all applicable provisions of these regulations.

7. All operator permits shall be posted in a prominent and conspicuous area where they may be readily observed by clients.

8. Probationary operator permits may be issued by the Department to operators who have met all the requirements of this section, except their prior experience has not been acquired while operating in a duly licensed establishment in Arizona or another state with similar licensing standards to those in Coconino County. Probationary permits shall be valid for 6 months. Upon completion of all requirements of this section, a regular operator permit will be issued for no additional fee.

C. Temporary establishment/operator permit.

1. Temporary establishment permits and, when required, temporary operator permits may be issued for body art services provided outside of the physical site of a certified facility for the purposes of product demonstration, industry trade shows or education, or for a guest artist demonstrating body art technique at a permitted establishment.

a. Temporary operator and/or establishment permits will not be issued unless:

i. The applicant furnishes proof of compliance with subsection A. and B. above relating to operator permits;

ii. The applicant is currently affiliated with a fixed location or permanent facility, which, where applicable, is permitted by the appropriate state and/or local jurisdiction; and

iii. The temporary site complies with § 9-5-6, Temporary Demonstration Permit Requirements, of these regulations.

b. In lieu of attendance at a bloodborne pathogens training program given by the Department within the past year as specified in B. above, the applicant may furnish proof of attendance at equivalent training which is acceptable to the Department.

c. Temporary permits expire after 7 days or the conclusion of the special event, whichever is less.

d. Temporary operator and/or establishment permit will not be issued unless the applicant has paid a reasonable fee as set by the Department.

e. Temporary operator and/or establishment permit shall not be transferable from one place or person to another.

f. Temporary operator and/or establishment permit shall be posted in a prominent and conspicuous area where they may be readily seen by clients.

D. *Operator trainee permit.*

1. A person who is training to become a licensed operator must obtain an operator-trainee permit from the Department. Coconino County shall charge a reasonable fee for such permits, as set forth in the fee schedule adopted by Coconino County.

2. The operator trainee permit is valid from the date of issuance and shall automatically expire in 1 year from the date of issuance, unless revoked sooner by the Department in accordance with § 9-5-16.

3. Application for an operator trainee permit shall include the information listed in subsection B.3.

4. Operator trainee permits may be issued by the Department after satisfaction of the following requirements:

a. Applicant is free of communicable diseases that may be transmitted to a patron:

i. Before any operator trainee permit may be issued, the applicant must be immunized against hepatitis B, unless the applicant declines in writing on a form approved by the Department;

ii. The operator trainee must begin the hepatitis B vaccination series prior to being issued an operator permit unless he has previously received the complete hepatitis B vaccination series and can provide documentation to the Department, antibody testing has revealed that the operator is immune, the vaccine is contraindicated for medical reasons, or if the applicant has declined in writing on a form approved by the Department;

b. Applicant must be at least 18 years of age;

c. Applicant will work under the direct supervision of an operator licensed by the Department;

d. Applicant has obtained a score of at least 80% on an examination of basic sanitation knowledge pertaining to body art, which will be administered by the Department.

5. All operator trainee permits shall be conditioned on continued compliance with the provisions of this section as well as all applicable provisions of these regulations.

6. All operator trainee permits shall be posted in a prominent and conspicuous area where they may be readily observed by the clients.

§ 9-5-6 TEMPORARY DEMONSTRATION PERMIT REQUIREMENTS.

A. A temporary permit may be issued by the Department for guest artists or for educational, trade show, or product demonstration purposes only. The permit is good for no more than 7 calendar days.

B. A person who wishes to obtain a temporary demonstration permit must submit the request in writing for review by the Department, at least 30 days prior to the event. The request should specify:

1. The purpose for which the permit is requested;

2. The period of time during which the permit is needed (not to exceed 7 calendar days per event), without re-application;

3. The fulfillment of operator requirements as specified in subsection 9-5-5C. above;

4. The location where the temporary demonstration permit will be used.

C. The applicant's demonstration project must be contained in a completely enclosed, non-mobile facility (for example, inside a permanent building).

D. If the demonstration is to occur outside of a permitted body art establishment, compliance with all of the requirements of these regulations includes, but is not limited to, the following:

1. Conveniently located hand-washing facilities with germicidal liquid soap, paper towels in a dispenser, and hot and cold water under adequate pressure shall be provided. Drainage in accordance with local plumbing codes is to be provided. Tuberculocidal single-use hand wipes, approved by the Department, to augment the hand-washing requirements of this section must be available in each booth/ cubicle;

2. A minimum of 80 square feet of floor space shall be provided;

3. There shall be at least 100 foot candles of light at the level where the body art procedure is being performed;

4. Facilities to properly sterilize instruments and evidence of a spore test performed on sterilization equipment 30 days or less prior to the date of the event must be provided, or only single-use, prepackaged, sterilized equipment obtained from reputable suppliers or manufacturers will be allowed;

5. Ability to properly clean and sanitize the area used for body art procedures is required.

E. If the facility where the temporary demonstration permit is needed is not a permitted body art establishment, the facility must be inspected by the Department and a permit issued prior to the performance of any body art procedures.

F. Temporary demonstration permits issued under the provisions of these regulations may be suspended by the Department for failure of the holder to comply with the requirements of these regulations.

G. All establishment and operator permits and the disclosure notice must be readily seen by clients. (Ord. 2003-01, passed 1-14-2003)

§ 9-5-7 REQUIREMENTS FOR PREMISES.

A. Body art establishments applying after adoption of these regulations shall submit a scale drawing and floor plan of the proposed establishment for a plan review by the city, Community Development, and the

Department, as part of the permit application process. The Department and the city shall charge a reasonable fee for this review.

B. Every workstation, instrument storage area, toilet room, cleaning area, and any area in a body art establishment other than the customer waiting area or office shall be constructed as follows so as to provide a durable smooth, nonabsorbent and washable surface:

1. Floors – constructed of commercially rated continuous sheet vinyl, smooth sealed cement, ceramic tile, or other similar approved materials;
 2. Walls – covered with a semi-gloss or gloss enamel paint, or constructed of fiberglass reinforced panel (FRP), ceramic tile, or other similar materials approved by the Department;
 3. Ceiling – covered with semi-gloss or gloss enamel paint or approved acoustical paneling;
 4. All such walls and ceilings shall be light-colored. For purposes of this chapter, light-colored shall mean a light reflectance value of 70% or greater;
 5. All walls, floors, and ceilings shall be maintained in a clean condition;
 6. All procedure surfaces, including client chairs/benches, shall be of such construction as to be easily cleaned and sanitized after each client.
- C. All body art establishments shall be completely separated by solid partitions or by walls extending from floor to ceiling, from any room used for human habitation, any food establishment or room where food is prepared, any hair salon, or any other such activity that may cause potential contamination of work surfaces. Retail sales shall be separated from the procedures area, instrument cleaning, and instrument storage areas.
- D. Effective measures shall be taken by the body art operator to protect against entrance into the establishment and against the breeding or presence on the premises of insects, vermin, and rodents. Insects, vermin, and rodents shall not be present in any part of the establishment, its appurtenances, or appertaining premises.
- E. There shall be a minimum of 45 square feet of floor space for each operator in the establishment. Each establishment shall have an area that may be screened from public view for clients requesting privacy. Multiple body art stations shall be separated by dividers, curtains, or partitions, at a minimum.
- F. The establishment shall be well-ventilated and provided with an artificial light source equivalent to at least 20 foot candles 3 feet off the floor, except that at least 100 foot candles shall be provided at the level where the body art procedure is being performed, and where instruments and sharps are assembled.
- G. No animals of any kind shall be allowed in a body art establishment except service animals used by persons with disabilities (for example, seeing eye dogs). Fish aquariums shall be allowed in waiting rooms and non-procedural areas.
- H. A separate, readily accessible hand sink with hot and cold running water, under pressure, preferably equipped with wrist- or foot-operated controls and supplied with liquid soap, and disposable paper towels in dispensers shall be readily accessible within the body art establishment. One hand sink shall serve no more than 3 operators actively engaged in body art procedures.
- I. A separate, readily accessible instrument sink with hot and cold running water, under pressure, shall be

readily accessible within the body art establishment.

J. There shall be at least 1 toilet facility provided in accordance with the Uniform Plumbing Code. Hand washing sinks with hot and cold running water, liquid soaps, and disposable paper towels in dispensers shall be

located in each toilet facility. At least 1 janitorial service sink shall be required for establishments opened after the effective date of the ordinance set forth in this chapter.

K. At least 1 covered waste receptacle shall be provided in each operator area and each toilet room. Receptacles in the operator area shall be emptied daily, and solid waste shall be removed from the premises at least weekly. All refuse containers shall be emptied daily, lidded, cleanable, and kept clean.

L. A sealable, rigid (puncture-proof) sharps container, appropriately labeled with the international biohazard symbol, that is strong enough to protect the operator, patrons, and others from accidental cuts or puncture wounds must be provided for disposal of sharp objects that come in contact with blood and/or body fluids.

M. An autoclave, registered and listed with the Federal Food and Drug Administration must be at the establishment at all times. In the event the establishment's autoclave is out for repair, another autoclave must be available for use. Sterilizers must be kept clean, in good working order, and operated in a clean area.

N. All instruments and supplies shall be stored in clean, dry, and covered containers.

O. Reusable cloth items shall be mechanically washed with detergent and bleach and dried after each use. The cloth items shall be stored in a dry, clean environment until used.

P. Chemicals used for chemical autoclave shall be stored and disposed of in accordance with applicable local, state, and federal regulations.
(Ord. 2003-01, passed 1-14-2003)

§ 9-5-8 BODY ART OPERATOR/TECHNICIAN REQUIREMENTS AND PROFESSIONAL STANDARDS.

A. It shall be unlawful for any person to own or operate a body art establishment or to perform body art procedures unless such procedures are performed in a body art establishment with a current permit from the Department.

B. The following information shall be kept on file on the premises of a body art establishment and available for inspection by the Department:

1. Employee information:
 - a. Full names and exact duties;
 - b. Date of birth;
 - c. Gender;

- d. Home address;
- e. Home/work phone numbers;
- f. Identification photos of all body art operator/technicians;

g. Documentation of hepatitis B immunizations;

2. Establishment information:

a. Establishment name;

b. Hours of operation;

c. Owner's name and address;

3. A complete description of all body art procedures performed;

4. A record of the types of all instruments and body jewelry, all sharps, and all inks used for any and all body art procedures, including names of manufacturers and serial or lot numbers, if applicable. Invoices or orders shall satisfy this requirement;

5. A copy of these regulations.

C. The following information must be prominently displayed in the body art establishment and shall not be altered or defaced in any manner:

1. Body art establishment permit;

2. Body art operator permit for each operator/technician;

3. Disclosure statement (Appendix B).

D. The body art operator/technician must be a minimum of 18 years of age.

E. Smoking, eating, drinking alcoholic beverages, or being under the influence of drugs or alcohol by either the operator or client is prohibited in the body art workstation, cleaning area, and instrument storage areas.

F. Operators/technicians shall refuse service to any person who, based on reasonable observation and inquiry, is under the influence of alcohol or drugs.

G. The operator/technician shall maintain a high degree of personal cleanliness, conform to hygienic practices, and wear clean clothes when performing body art procedures. Before performing body art procedures, operators/technicians must thoroughly wash their hands in hot running water with liquid soap, then rinse hands and dry with disposable paper towels. This shall be done as often as necessary to remove contaminants.

H. In performing body art procedures, the operator shall wear disposable medical gloves. Gloves must be changed if they become contaminated by contact with any non-clean surfaces or objects, by contact with a third person, or when interruptions in the procedure occur to prevent cross-contamination. The gloves shall be discarded, at a minimum, after the completion of each procedure on an individual client, and hands shall be

washed before the next set of gloves is donned. Under no circumstances shall a single pair of gloves be used on more than 1 person. The use of disposable medical gloves does not preclude or substitute for hand-washing procedures as part of a good personal hygiene program.

I. If, while performing a body art procedure, the operator's/technician's glove is pierced, torn, or otherwise contaminated, the procedure delineated in subsection H. above shall be repeated immediately. The contaminated gloves shall be immediately discarded and the hands washed thoroughly (see above) before a fresh pair of gloves is applied. Any item or instrument used for body art that is contaminated during the procedure shall be discarded and replaced immediately with a new disposable item or a new sterilized instrument or item before the procedure resumes.

J. Contaminated waste, as defined in these regulations, that may release liquid blood or body fluids when compressed or may release dried blood or body fluids when handled must be placed in an approved container marked with the international bio-hazard symbol. It must then be disposed of by a waste hauler approved by the Department or, at a minimum, in compliance with 29 C.F.R. Part 1910.1030, "Occupational Exposure to Bloodborne Pathogens." Sharps ready for disposal shall be disposed of in approved sharps containers. Sharps containers must be replaced routinely and not be allowed to overfill. Contaminated waste that does not release liquid blood or body fluids when compressed or does not release dried blood or body fluids when handled may be placed in a covered receptacle and disposed of through normal approved disposal methods.

K. No person shall perform any body art procedure, including ear piercing, upon a person under the age of 18 years without the physical presence, consent, and proper identification of a parent, legal custodial parent, or legal guardian. Nothing in this section is intended to require an operator to perform any body art procedure on a person under 18 years of age with parental or guardian consent.

1. The age of all patrons must be verified via picture identification and documented prior to the procedure being performed.

2. Picture identification of all patrons for verification of age must be photocopied and kept with the patron's paperwork.

L. No person who is not licensed pursuant to A.R.S. Title 32 shall administer anesthesia during the course of any procedure involving the branding, scarifying, tattooing, implanting, mutilating, or piercing of the body of another person.

M. Any skin or mucosa surface to receive a body art procedure shall be free of rash or any visible infection.

N. The skin of the operator/technician shall be free of rash or infection. No person or operator affected with boils, infected wounds, open sores, abrasions, keloids, weeping dermatological lesions, or acute respiratory infection (which may include, but is not limited to, the common cold, influenza, pneumonia, and tuberculosis) shall work in any area of a body art establishment in any capacity in which there is a likelihood that that person could contaminate body art equipment, supplies, or working surfaces with body substances or pathogenic organisms.

O. Operators with hepatitis B or other bloodborne communicable diseases are prohibited from performing body art procedures.

P. Proof shall be provided upon request of the Department that all operators/technicians have either

completed or were offered and declined, in writing, the hepatitis B vaccination series. This offering shall be included as a pre-employment requirement. A copy of the written declination shall be submitted to the Department and kept by the facility permit holder.
(Ord. 2003-01, passed 1-14-2003)

§ 9-5-9 PUBLIC NOTIFICATION REQUIREMENTS.

A. Verbal and written public educational information approved by the Department shall be required to be given to all clients which shall include:

1. A notice that the body art should be considered permanent and removable only by a surgical procedure which may leave permanent scarring and disfigurement;

2. Instructions approved by the Department for the aftercare of the body art procedure site. The written instructions shall advise the client to consult a physician at the first sign of infection or unusual or abnormal swelling and shall contain the name, address, and phone number of the establishment.

B. These documents shall be signed and dated by both parties, with a copy given to the client and the operator retaining the original with all other required records.

C. All establishments shall prominently display a disclosure statement provided by the Department which advises the public of the risks and possible consequences of body art services. The facility permit holder shall also post in public view the name, address, and phone number of the Department that has jurisdiction over this program and the procedure for filing a complaint. The disclosure statement and the notice for filing a complaint shall be included in the establishment permit application packet.

D. All infections, complications, illnesses, or diseases resulting from any body art procedure that become known to the operator shall be reported to the Department by the operator within 24 hours.

(Ord. 2003-01, passed 1-14-2003)

§ 9-5-10 CLIENT RECORDS.

A. So that the operator/technician can properly evaluate the client's medical condition for receiving a body art procedure and not violate the client's rights or confidential medical information, the operator or technician shall ask each client to complete a written questionnaire in essentially the following form:

In order for us to assist you in the healing of your body art procedure, we ask that you disclose if you have or have had any of the following conditions:

1. Diabetes;
2. History of hemophilia (bleeding);
3. History of skin diseases, skin lesions, or skin sensitivities to soaps, disinfectants, etc.;
4. History of allergies or adverse reactions to pigments, dyes, or other skin sensitivities;
5. History of epilepsy, seizures, fainting, or narcolepsy;

6. History of jaundice or hepatitis within twelve (12) months preceding the date of the operation;
7. Use of medications, such as anticoagulants, which thin the blood and/or interfere with blood clotting.

B. The operator/technician should ask the client to sign a release form confirming that the above information was obtained or that the operator/technician attempted to obtain the information but was refused by the client. The client should be asked to disclose any other information that would aid the operator/technician in evaluating the client's body art healing process.

C. If the client discloses having within the past 12 months a history of jaundice or hepatitis, the procedure may not be performed.

D. Each operator and each establishment in which the operator is located shall keep records of all body art procedures administered, including date, time, identification, location of the body art procedure(s) performed, and operator's name. All client records shall be confidential and be retained for a minimum of 3 years and made available to the Department upon notification.

E. Nothing in this section shall be construed to require the operator to perform a body art procedure upon a client.

(Ord. 2003-01, passed 1-14-2003)

§ 9-5-11 RECORDS RETENTION.

The body art establishment shall keep a record of all persons who have had body art procedures performed. The record shall include the name, date of birth, and address of the client, the date of the procedure, the name of the operator who performed the procedure(s), type and location of procedure performed, and printed name and written signature of client, and, if the client is a minor, proof of parental or guardian presence and consent, including photo identification of the parent or guardian, name of parent or legal guardian, proof of parentage or legal guardianship through a copy of a birth certificate or court order of guardianship respectively, or a notarized document signed by the parent or legal guardian attesting to the parent's/legal guardian's relationship to the client and consent to the conduct of the contemplated body art activity upon the client and all client records required in § 9-5-10. Such records shall be retained for a minimum of 3 years and shall be available to the Department upon request. The Department and the body art establishment shall keep such records confidential.

(Ord. 2003-01, passed 1-14-2003)

§ 9-5-12 PREPARATION AND CARE OF THE BODY ART AREA.

A. All procedure surfaces of a body art establishment shall be sanitized before and after each body art procedure.

B. Before a body art procedure is performed, the immediate skin area and the areas of skin surrounding where the body art procedure is to be placed shall be washed with a germicidal soap and water and cleansed with 70% isopropyl alcohol or another antiseptic approved by the Department. If shaving is necessary, single-use disposable razors or safety razors with single-service blades shall be used. Blades shall be discarded after each use, and reusable holders shall be autoclaved after use. Following shaving, the skin and surrounding area shall be washed with a bactericidal soap solution. The washing pad shall be discarded after a single use.

C. If linens or single use disposable paper products are used for any purpose, the following shall apply:

1. Clean linens shall be used for each patron; a common towel is prohibited;

2. Clean linens, tissues, or single-use paper products shall be stored in a clean, enclosed storage area until needed for immediate use;

3. Used linens shall be stored in a closed or covered container until laundered;

4. Soiled linens may be laundered in a washing machine with laundry detergent and chlorine bleach or by a regular commercial laundry service.

D. In the event of blood flow, all products used to check the flow of blood or to absorb blood shall be single-use and disposed of immediately after use in appropriate covered containers, unless the disposal products meet the definition of biomedical waste (see definition).

(Ord. 2003-01, passed 1-14-2003)

§ 9-5-13 SANITATION AND STERILIZATION PROCEDURES.

A. All non-single-use, non-disposable instruments used for body art shall be cleaned thoroughly after each use by scrubbing with a germicidal soap or disinfectant solution and hot water in an instrument sink to remove blood and tissue residue, followed by cleaning in an ultrasonic unit also operated in accordance with manufacturer's instructions.

B. After being cleaned, all non-disposable instruments used for body art shall be packed individually in peel-packs and subsequently sterilized (see Article 8.3). All peel-packs shall contain either a sterilizer indicator or internal temperature indicator. Peel-packs must be dated with an expiration date not to exceed 30 days.

C. All cleaned, non-disposable instruments used for body art shall be sterilized in a steam or chemical autoclave. The sterilizer shall be used, cleaned, and maintained according to manufacturer's instruction. A copy of the manufacturer's recommended procedures for the operation of the sterilization unit must be available for inspection by the Department. Sterile equipment may not be used if the package has been breached or after the expiration date without first repackaging and re-sterilizing. When a seal is broken on bulk items, the individual items must be re-sterilized before use. Sterilizers shall be located away from work stations or areas frequented by the public.

D. Each holder of a permit to operate a body art establishment shall demonstrate that the sterilizer used is capable of attaining sterilization by monthly spore destruction tests. These tests shall be verified through an independent laboratory. In addition, if a chemical autoclave is used, the permit holder shall demonstrate its use to the Department upon request and shall keep a log of disposal dates of chemicals, manner of disposal, and dates of each cleaning. The permit shall not be issued or renewed until documentation of the sterilizer's ability to destroy spores and record logs are reviewed by the Department. These test records shall be retained by the operator for a period of 3 years and made available to the Department upon request.

E. After sterilization, the instruments used for tattooing/body piercing shall be stored in a pre-disinfected cabinet or other tightly covered container reserved for the storage of such instruments.

F. All instruments used for tattooing/body piercing shall remain stored in sterile packages until just prior to the performance of a body art procedure. When assembling instruments used for body art procedures, the operator shall wear disposable medical gloves and use medically recognized techniques to ensure that the instruments and gloves are not contaminated.

G. All inks, dyes, pigments, needles, and equipment shall be specifically manufactured for performing body art procedures and shall be used according to manufacturer's instructions. The mixing of approved inks, dyes, or pigments or their dilution with potable water is acceptable. Immediately before a tattoo is applied, the quantity of the dye to be used shall be transferred from the dye bottle and placed into single use paper cups or plastic cups. Upon completion of the tattoo, these single cups or caps and their contents shall be discarded. (Ord. 2003-01, passed 1-14-2003)

§ 9-5-14 REQUIREMENTS FOR SINGLE USE ITEMS.

A. Single-use items shall not be used on more than 1 client for any reason. After use, all single-use needles, razors, and other sharps shall be immediately disposed of in approved sharps containers, appropriately labeled with the international biohazard symbol.

B. All products applied to the skin, including body art stencils, shall be single-use and disposable. Petroleum jellies, soaps, deodorants, and other products used in the application of stencils shall be dispensed and applied on the area to be tattooed with sterile gauze or in a manner to prevent contamination of the original container and its contents. The gauze shall be used only once and then discarded. (Ord. 2003-01, passed 1-14-2003)

§ 9-5-15 ENFORCEMENT.

A. Establishments and operators operating at the time of the enactment of these regulations shall be given 6 months to make application to the Department and comply with these regulations. Establishments and operators that continue to operate without proper permits from the Department, or operate in violation of these regulations, will be subject to legal remedial actions and sanctions as provided by law:

1. Violation of A.R.S. § 13-37-21 (incorporated herein as § 9-5-3 A. through E. above) is a class 6 felony;

2. Any person, whether as principal, owner, agent, tenant, employee, or otherwise, who violates any provision of this section, or fails to comply with any provision of this section shall be deemed guilty of a class 1 misdemeanor and, upon conviction thereof, shall be punishable as provided in § 1-8 of this Code. The conviction of any person hereunder shall not relieve such person from the responsibility to correct such violation, nor prevent the enforcement, correction, or removal thereof in any manner authorized by law.

B. A representative of the Department or the Code Enforcement Section of the Sedona Community Development Department shall properly identify himself or herself before entering a body art establishment to make an inspection. Such an inspection must be conducted as often as necessary throughout the year to ensure compliance with these regulations.

C. It is unlawful for any person to interfere with the Department or the Code Enforcement section of the Sedona Community Development Department in the performance of its duties.

D. A copy of any inspection report must be furnished to the permit holder or operator of the body art establishment, with the Department retaining possession of the original.

E. If, after investigation, the Department should find that a permittee or operator is in violation of these regulations, the Department may issue a cease and desist order, notify the permittee or operator, in writing, of its findings, and instruct the operator to take specific steps to correct such violations within a reasonable period of time, not to exceed 10 days.

F. If the Department has reasonable cause to suspect that a communicable disease is or may be transmitted by an operator, by use of unapproved or malfunctioning equipment, or by unsanitary or unsafe conditions that may adversely affect the health of the public, upon written notice to the owner or operator, the Department may do any or all of the following:

1. Issue an order excluding any or all operators from the permitted body art establishment who are responsible, or reasonably appear responsible, for the transmission of a communicable disease until the Department determines there is no further risk to public health;

2. Issue an order to immediately suspend the permit of the licensed establishment until the Department determines there is no further risk to the public health. Such an order shall state the cause for the action.

(Ord. 2003-01, passed 1-14-2003)

§ 9-5-16 SUSPENSION OR REVOCATION OF PERMITS.

A. Permits issued under the provisions of these regulations may be suspended temporarily by the Department for failure of the holder to comply with the requirements of these regulations.

B. Whenever a permit holder or operator has failed to comply with any notice of violation or order issued under the provisions of these regulations, the operator must be notified in writing that the permit is, upon service of this notice, immediately suspended. The notice must also contain a statement informing the permit holder or operator that an opportunity for a hearing will be provided if a written request for a hearing is filed with the Department within 5 days of the date of notice.

C. Any person whose permit has been suspended may, at any time, make application for reinstatement of the permit. Within 10 days of receipt of a written request, including a statement signed by the applicant that in his or her opinion the conditions causing the suspension have been corrected and submission of the appropriate reinspection fees, the Department shall reinspect the body art establishment or evaluate documentation provided by an operator. If the applicant is in compliance with the provisions of these regulations, the permit will be reinstated. Permits that have been temporarily suspended by the Department under these regulations shall be subject to a reinstatement fee.

D. For repeated or serious violations of any of the requirements of these regulations (such as, any code infraction that threatens the health of the client or operator) or for interference with Department personnel in the performance of their duties, a permit may be permanently revoked after a hearing. Before taking such action, the Department shall notify the permit holder or operator in writing, stating the reasons for which the permit is subject to revocation, and advising the permit holder or operator of the requirements for filing a request for a hearing. A

permit may be suspended for cause, pending its revocation or hearing relative thereto.

E. The Department may permanently revoke a permit after 5 days following service of the notice unless a request for a hearing is filed within the 5 day period with the Department by the permit holder.

F. The hearings provided for in this section must be conducted by a hearing officer appointed by the Department. On the basis of the record of the hearing, the hearing officer shall make a finding and may sustain, modify, or rescind any official notice or order considered in the hearing. A written report of the hearing decision must be furnished to the permit holder or operator by the Department.

(Ord. 2003-01, passed 1-14-2003)

§ 9-5-17 INTERPRETATION.

In the interpretation of these regulations, the singular may be read as the plural, the masculine gender as the feminine or neuter, and the present tense as the past or future, where the context so dictates.

(Ord. 2003-01, passed 1-14-2003)

§ 9-5-18 CODIFICATION.

The foregoing sections of the City of Sedona Body Art Regulations shall be incorporated into the Sedona City Code, Article 9-5, to become effective 30 days from the date of the ordinance relating hereto.

(Ord. 2003-01, passed 1-14-2003)

ARTICLE 9-6: SMOKE FREE AIR

Section

- 9-6-1 Purpose
- 9-6-2 Definitions
- 9-6-3 Regulation of smoking in public places, businesses, places of employment and restaurants

§ 9-6-1 PURPOSE.

The smoking of tobacco and other plants or weeds is a health danger to those exposed to the smoke and is a source of annoyance and discomfort to those present in confined areas where such smoke is present. For these reasons, the purpose of this article is to regulate smoking in enclosed public places and in places of employment. (Ord. 2006-03, passed 1-10-2006)

§ 9-6-2 DEFINITIONS.

For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

EMPLOYEE. Any person who performs any service on a full-time, part-time or contracted basis whether or not the person is denominated an employee, independent contractor or otherwise and whether or not the person is compensated or is a volunteer.

EMPLOYER. A person, business, partnership, association, the state of Arizona and its political subdivisions, corporations, including a municipal corporations, trust, or non-profit entity that employs the services of one or more individual persons.

ENCLOSED AREA. All space between a floor and ceiling that is enclosed on all sides by permanent or temporary walls or windows (exclusive of doorways), which extend from the floor to the ceiling. Enclosed area includes a reasonable distance from any entrances, windows and ventilation systems so that persons entering or leaving the building or facility shall not be subjected to breathing tobacco smoke and so that tobacco smoke does not enter the building or facility through entrances, windows, ventilation systems or any other means.

HEALTH CARE FACILITY. Any enclosed area utilized by any health care institution licensed according to Title 36 Chapter 4, Chapter 6 Article 7, or Chapter 17, or any Health Care Professional licensed according to Arizona Revised Statutes Title 32 Chapters 7, 8, 11, 13, 14, 15, 15.1, 16, 17, 18, 19, 19.1, 21, 25, 28, 29, 33, 34, 35, 39, 41, or 42.

PERSON. An individual, partnership, corporation, limited liability company, entity, association,

governmental subdivision or unit of a governmental subdivision, or a public or private organization of any character.

PHYSICALLY SEPARATE. All space between a floor and ceiling which is enclosed on all sides by solid walls or windows (exclusive of door or passageway) and independently ventilated from smoke-free areas, so that air within permitted smoking areas does not drift or get vented into smoke-free areas.

PLACES OF EMPLOYMENT. An enclosed area under the control of a public or private employer that employees normally frequent during the course of employment, including office buildings, work areas, auditoriums, employee lounges, restrooms, conference rooms, meeting rooms, classrooms, cafeterias, hallways, stairs, elevators, health care facilities, private offices and vehicles owned and operated by the employer during working hours when the vehicle is occupied by more than one person. A private residence is not a "place of employment" unless it is used as a child care, adult day care, or health care facility.

PUBLIC PLACE. Any enclosed area to which the public is invited or in which the public is permitted, including airports, banks, bars, common areas of apartment buildings, condominiums or other multifamily housing facilities, educational facilities, entertainment facilities or venues, health care facilities, hotel and motel common areas, laundromats, public transportation facilities, reception areas, restaurants, retail food production and marketing establishments, retail service establishments, retail stores, shopping malls, sports facilities, theaters, and waiting rooms. A private residence is not a "public place" unless it is used as a child care, adult day care, or health care facility.

RETAIL TOBACCO STORE. A retail store that derives the majority of its sales from tobacco products and accessories.

SMOKING. Inhaling, exhaling, burning, or carrying or possessing any lighted tobacco product, including cigars, cigarettes, pipe tobacco and any other lighted tobacco product.

SPORTS FACILITIES. Enclosed areas of sports pavilions, stadiums, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, billiard halls, bowling alleys, and other similar places where members of the general public assemble to engage in physical exercise, participate in athletic competition, or witness sporting events.

VETERAN AND FRATERNAL CLUBS. A club as defined in A.R.S. 4-101(7)(a)(b) or (c).
(Ord. 2006-03, passed 1-10-2006)

§ 9-6-3 REGULATION OF SMOKING IN PUBLIC PLACES, BUSINESSES, PLACES OF EMPLOYMENT AND RESTAURANTS.

A. Smoking is prohibited in all public places and places of employment within the City of Sedona, except the following:

1. Private residences, except when used as a licensed child care, adult day care, or health care facility.
2. Hotel and motel rooms that are rented to guests and are designated as smoking rooms; provided; however, that not more than 50% of rooms rented to guests in a hotel or motel are so designated.

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3. Retail tobacco stores that are physically separated so that smoke from retail tobacco stores does not infiltrate into areas where smoking is prohibited under the provisions of this section.

4. Veterans and fraternal clubs when they are not open to the general public.

5. Smoking when associated with a religious ceremony practiced pursuant to the American Indian Religious Freedom Act of 1978.

6. Outdoor patios so long as tobacco smoke does not enter areas where smoking is prohibited through entrances, windows, ventilation systems, or other means.

7. A theatrical performance upon a stage or in the course of a film or television production if the smoking is part of the performance or production.

B. The prohibition on smoking in places of employment shall be communicated to all existing employees by the effective date of this section and to all prospective employees upon their application for employment.

C. Notwithstanding any other provision of this section, an owner, operator, manager, or other person or entity in control of an establishment, facility, or outdoor area may declare that entire establishment, facility, or outdoor area as a nonsmoking place.

D. Posting of signs and ashtray removal.

1. "No smoking" signs or the international "no smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) shall be clearly and conspicuously posted by the owner, operator, manager, or other person in control of that place identifying where smoking is prohibited by this section and where complaints regarding violations may be registered.

2. Every public place and place of employment where smoking is prohibited by this section shall have posted at every entrance a conspicuous sign clearly stating that smoking is prohibited.

3. All ashtrays shall be removed from any area where smoking is prohibited by this section by the owner, operator, manager, or other person having control of the area.

E. No employer may discharge or retaliate against an employee because that employee exercises any rights afforded by this section or reports or attempts to prosecute a violation of this section.

F. An owner, manager, operator or employee of place regulated by this law shall inform any person who is smoking in violation of this law that smoking is illegal and request that the illegal smoking stop immediately.

G. A person who smokes where smoking is prohibited is guilty of a petty offense with a fine of not less than \$50 and not more than \$300.
(Ord. 2006-03, passed 1-10-2006)

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